

# ARKANSAS CODE OF 1987 ANNOTATED



## 2021 SUPPLEMENT VOLUME 7A

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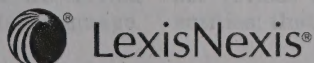
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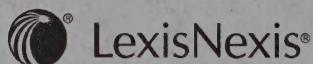
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# TITLE 10

## GENERAL ASSEMBLY

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**Effective Dates.** Identical Acts 2015, Nos. 555 and 556, § 5: Mar. 20, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the under Amendment 94 the Independent Citizens Commission submitted a recommendation regarding expense reimbursement to the Speaker of the House and the President Pro Tempore of the Senate; that the Speaker of the House and the President Pro Tempore of the Senate in coordination with the Independent Citizens Commis-sion are implementing the recommenda-tions submitted; and that this act is im-mediately necessary to ensure that provisions of Amendment 94 are carried out in accordance with its language.

Therefore, an emergency is declared to exist, and this act being immediately nec-essary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General As-sembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new de-



partments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should

become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 10-2-101. Time for meeting.

(a)(1) The General Assembly shall meet in regular session at 12:00 noon on the second Monday in January in each odd-numbered year.

(2)(A) However, in any odd-numbered year following the election of a nonincumbent governor, the General Assembly upon convening at 12:00 noon on the second Monday in January may remain in session only for such time not to exceed two (2) days as is necessary to open and publish the votes for various constitutional offices, to swear in the state constitutional officers and members of the General Assembly, to organize and select officers, and to otherwise prepare for the regular session.

(B) The General Assembly may then stand in recess for a period not to exceed thirty (30) days.

(b)(1) The General Assembly shall meet in a fiscal session to consider appropriation bills in each even-numbered year at 12:00 noon on the:

(A) Second Monday in February in years in which the preferential primary election is held in May under § 7-7-203; and

(B) Second Wednesday in April in years in which the preferential primary election is held in March under § 7-7-203.

(2) A bill other than an appropriation bill may be considered in a fiscal session if two-thirds ( $\frac{2}{3}$ ) of the members of each house of the General Assembly approve consideration of the nonappropriation bill.

**History.** Acts 1875 (Adj. Sess.), No. 39, § 1, p. 42; C. & M. Dig., § 4919; Pope's Dig., § 6136; Acts 1981, No. 847, § 1; A.S.A. 1947, § 4-101; Acts 2009, No. 962, § 8; 2019, No. 545, § 5.

**A.C.R.C. Notes.** The 2015 (1st Ex. Sess.) amendment to this section expired December 31, 2016. Acts 2015 (1st Ex. Sess.), No. 5, § 5, provided:

"(a) This act is cumulative of existing laws and shall not repeal but merely suspend any law in conflict with the act.

"(b) The provisions of this act are temporary and expire on December 31, 2016.

"(c) On and after December 31, 2016, the provisions of law suspended by this act shall be in full force and effect.

"(d) The expiration of this act shall not affect rights acquired under it or affect suits then pending."

**Amendments.** The 2019 amendment, in (b)(1), deleted "at 12:00 noon on the second Monday in February of each even-numbered year" following "session" and added "in each even-numbered year at 12:00 noon on the"; and added (b)(1)(A) and (b)(1)(B).



**10-2-103. Coordinator of House Legislative Services.**

(a) The Coordinator of House Legislative Services shall be appointed by the Speaker of the House of Representatives with the approval of the House Management Committee.

(b)(1) The Coordinator of House Legislative Services shall perform such duties as may be provided by Rules of the House of Representatives and as provided by the Speaker of the House of Representatives and the House Management Committee.

(2) In addition thereto, the Coordinator of House Legislative Services shall hereafter perform all duties imposed upon the Chief Clerk of the House of Representatives now provided by law or authorized by Rules of the House of Representatives especially with respect to the disbursement of House funds, the keeping of fiscal accounts and records, the signing of official documents, and the acquisition of stationery, postage, and other supplies for the House of Representatives and its members.

(3) [Repealed.]

**History.** Acts 1991, No. 1, § 3; 2015, No. 555, § 1; 2015, No. 556, § 1.

**10-2-112. Prefiling of bills and resolutions — Assignment to committee — Printing.**

(a)(1) The Chief Clerk of the House of Representatives and the Secretary of the Senate, under the direction and supervision of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, shall establish a system for the prefiling of bills and resolutions beginning on:

(A) November 15 of each year preceding a regular session of the General Assembly;

(B) The second Monday of January of each year of a fiscal session of the General Assembly which is held in a year in which the preferential primary election is held in May under § 7-7-203; and

(C) The second Monday of March of each year of a fiscal session of the General Assembly which is held in a year in which the preferential primary election is held in March under § 7-7-203.

(2) A nonappropriation bill may not be prefiled prior to a fiscal session due to the requirement in Arkansas Constitution, Amendment 86, that a concurrent resolution be approved by a vote of two-thirds ( $\frac{2}{3}$ ) of the members elected to each house before either body may consider a nonappropriation bill.

(3) Under that presession filing system, each member-elect of the General Assembly and holdover member of the Senate who will be serving at the next-following regular session of the General Assembly shall be permitted to prefile bills and resolutions for the next regular session as soon as the members-elect of the next General Assembly are certified to the Secretary of State.



(b) The Chief Clerk of the House of Representatives and the Secretary of the Senate, respectively, shall assign numbers to House and Senate bills and resolutions.

(c) The Speaker-elect of the House of Representatives and the President Pro Tempore of the Senate shall provisionally assign all prefiled bills and resolutions to committees. Upon the convening of the General Assembly, the respective bodies shall review the assignment of the bills and resolutions made prior to the convening of the session by the Speaker-elect of the House of Representatives and the President Pro Tempore of the Senate, and shall make official assignments of the bills and resolutions in accordance with their respective rules.

(d) The legislative printing contract which includes the printing of bills, resolutions, committee reports, special reports, approved acts, and other specified legislative documents shall include the printing of prefiled bills and resolutions filed pursuant to this section.

**History.** Acts 1973, No. 91, §§ 1, 2; A.S.A. 1947, §§ 4-146, 4-147; Acts 1987, No. 64, § 1; 1991, No. 203, § 1; 2003, No. 1473, § 18; 2009, No. 962, § 11; 2019, No. 545, § 6.

**A.C.R.C. Notes.** The 2015 (1st Ex. Sess.) amendment to this section expired December 31, 2016. Acts 2015 (1st Ex. Sess.), No. 5, § 5, provided:

“(a) This act is cumulative of existing laws and shall not repeal but merely suspend any law in conflict with the act.

“(b) The provisions of this act are temporary and expire on December 31, 2016.

“(c) On and after December 31, 2016, the provisions of law suspended by this act shall be in full force and effect.

“(d) The expiration of this act shall not affect rights acquired under it or affect suits then pending.”

**Amendments.** The 2019 amendment redesignated former (a)(1)(B)(i) as (a)(1)(B); added “which is held in a year in which the preferential primary election is held in May under § 7-7-203; and” in (a)(1)(B); added (a)(1)(C); and redesignated former (a)(1)(B)(ii) and (a)(2) as (a)(2) and (a)(3).

## **10-2-114. Bills imposing new or additional costs on municipality or county — Fiscal impact statements — Definition.**

(a)(1) Any bill filed with the Senate that requires an expenditure of public funds by a municipality or county or otherwise imposes a new or increased cost obligation on any municipality or county shall have a fiscal impact statement attached to it prepared by the author of the bill and filed with the bill at the time of its introduction. A copy of such fiscal impact statement shall be placed on the desk of each member of the Senate committee to which the bill is referred before the bill may be called up for final action in the committee. A copy of it shall also be placed on the desk of each member of the Senate before a final vote may be taken on it for final passage.

(2) If the author of any Senate or House of Representatives bill affected by this section shall fail to file a fiscal impact statement, any member of the Senate committee to which the bill is referred may object to its being called up for final action in the committee until a fiscal impact statement is made available to the committee. If such an objection is made by a member of the Senate committee, the chair of the committee shall refer the bill to the appropriate state agency or to the



legislative staff for the preparation of a fiscal impact statement, to be returned to the committee in writing not later than five (5) days from the date of the request.

(3) If any such Senate or House bill is called up for final passage in the Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, any member of the Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the Senate at least one (1) day prior to the bill's being called up for final passage. If such an objection is made, the presiding officer of the Senate shall cause the bill to be referred to the appropriate state agency or to the designated legislative staff for the preparation of a fiscal impact statement which shall be filed in writing with the Senate not later than five (5) days from the date of the request.

(b)(1) When any House or Senate bill requiring an expenditure of public funds or otherwise imposing a new or increased cost obligation on any municipality or county is pending before any committee of the House, any member of the committee may request that a fiscal impact statement for the bill be placed on the desk of each member of the committee before the bill is called up for final action in the committee. If a request is made, the chair of the committee shall refer the bill to the appropriate state agency or to the legislative staff for the preparation of a fiscal impact statement to be returned to the committee in writing not later than five (5) days from the date of the request.

(2) Any time before the bill is read the third time in the House, a member of the House may request that a fiscal impact statement for the bill be prepared and placed on the desk of each member. When a member of the House so requests a fiscal impact statement on any bill, the Speaker of the House of Representatives shall furnish the member a fiscal impact statement signature form which shows the number of the bill for which the statement is requested and the date and time the request was made. If the member returns the form containing the signature of the requesting member and the signatures of at least nine (9) other House members within thirty (30) minutes of the time shown on the form, the fiscal impact statement shall be prepared and placed on the desk of each member of the House before the bill is read the third time.

(3) If a bill is called up for final passage in the House and a fiscal impact statement has not been provided for the bill, any member of the House in which the bill is being considered may move that a final vote on the passage of the bill be delayed until a fiscal impact statement is prepared and made available on the desk of each member of the House at least one (1) full day prior to the bill's being called up for final passage. If the motion is made and is adopted by a majority vote of the membership of the House, the Speaker of the House of Representatives shall cause the bill to be referred to the appropriate state agency or to the designated legislative staff for the preparation of a fiscal impact



statement which shall be filed with the House within five (5) days of the date of the request.

(c) Failure of the sponsor of a bill to provide the fiscal impact statement required in this section shall not prohibit the consideration of it in the committee to which referred or on the floor of the house in which the bill is called up for final passage if no objection to it is made at the time such action is taken.

(d) Nothing in this section shall prohibit a committee to which a bill is referred or the house in which the bill is being considered from suspending the requirement of the filing of a fiscal impact statement on any such bill in the same manner as provided for the suspension of the rules in the house in which the bill is being considered.

(e) Copies of fiscal impact statements prepared in compliance with the provisions of this section shall be made available upon request for them to representatives of municipal or county governments. A fiscal impact statement filed or prepared in compliance with this section is declared to be a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(f) For the purposes of this section, the term "fiscal impact statement" means a realistic statement of the estimated financial cost to municipalities or counties of implementing or complying with a proposed law and rules promulgated under it.

**History.** Acts 1985, No. 806, § 1; A.S.A. 1947, § 13-2304; Acts 1992 (1st Ex. Sess.), No. 43, § 1; 2019, No. 315, § 734.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (f).

## 10-2-123. Institute of Legislative Procedure.

**A.C.R.C. Notes.** Acts 2018, No. 1, § 9, provided: "LEGISLATIVE INSTITUTE. Members of the preceding General Assembly and the newly elected members of the House of Representatives and Senate shall be eligible to attend the biennial Institute of Legislative Procedure and shall be entitled, upon filing claim therefor, to per diem in the amount fixed by law for members of the General Assembly to receive for attendance at Legislative sessions, for each day in attending the biennial Institute of Legislative Procedure plus mileage for traveling from their place of residence to the biennial Institute of Legislative Procedure and return."

Acts 2020, No. 1, § 9, provided: "LEGISLATIVE INSTITUTE. Members of the preceding General Assembly and the newly elected members of the House of Representatives and Senate shall be eligible to attend the biennial Institute of Legislative Procedure and shall be entitled, upon filing claim therefore, to per diem in the amount fixed by law for members of the General Assembly to receive for attendance at Legislative sessions, for each day in attending the biennial Institute of Legislative Procedure plus mileage for traveling from their place of residence to the biennial Institute of Legislative Procedure and return."

## 10-2-127. Fiscal impact statement — Definition.

(a)(1) As used in this section, unless the context otherwise requires, "fiscal impact statement" means a realistic written statement of the purpose of a proposed law, or a rule promulgated under a law, and the



estimated financial cost to the state or any local school district of implementing or complying with the proposed law or rule.

(2) The fiscal impact statement shall be developed by the Office of Economic and Tax Policy with the assistance of the Division of Elementary and Secondary Education within the guidelines adopted by the House Committee on Education and the Senate Committee on Education, as applicable.

(b) Any bill filed in the House of Representatives or Senate that will impose a new or increased cost obligation for education in grades kindergarten through twelve (K-12) on the State of Arkansas or any local school district shall have a fiscal impact statement attached to it prepared and filed with the chair of the committee to which the bill is referred:

(1) At least three (3) days before the bill may be called up for final action in the committee during a regular session of the General Assembly;

(2) At least three (3) days before the bill may be called up for final action in the committee during a fiscal session; and

(3) At least one (1) day before the bill may be called up for final action in the committee during a special session of the General Assembly.

(c)(1)(A) If any such House or Senate bill is called up for final passage in the House or Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, any member of the House or Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the House or Senate at least one (1) day prior to the bill's being called up for final passage.

(B) An affirmative vote of two-thirds ( $\frac{2}{3}$ ) of a quorum present and voting shall override the objection.

(2) If an objection is made without override, the presiding officer of the House or Senate shall cause the bill to be referred to the office for the preparation of a fiscal impact statement which shall be filed with the presiding officer not later than five (5) days from the date of the request.

**History.** Acts 1995, No. 1253, §§ 1, 3; 2003 (2nd Ex. Sess.), No. 14, § 1; 2009, No. 962, § 14; 2019, No. 315, § 735; 2019, No. 910, § 2208.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(2).

**Amendments.** The 2019 amendment by No. 315 substituted "rule" for "regulation" twice in (a)(1).

## 10-2-129. Drafting and information requests to legislative employees — Definitions.

(a) As used in this section:

(1) "Legislative employee" means an employee of the House of Representatives, the Senate, the Bureau of Legislative Research,



Arkansas Legislative Audit, and the Arkansas Code Revision Commission; and

(2) "Legislator" means any member of the General Assembly or a member-elect of the General Assembly.

(b)(1) A drafting request or information request made to a legislative employee by or on behalf of a legislator is confidential.

(2) The identity of the legislator making the request, except to the extent necessary to fulfill the request, and the existence of the request shall not be revealed to any person who is not a legislative employee without the consent of the legislator.

(c)(1) Any supporting documents submitted or caused to be submitted to a legislative employee by a legislator in connection with a drafting or information request are confidential.

(2) Except to the extent necessary to fulfill the request, the document, copies of the document, or the identity of the person, firm, or association producing it shall not be provided to any person who is not a legislative employee without the consent of the legislator.

(d) Unless made public by the legislator, a drafting request, information request, supporting documents, and the drafts or the work product for a drafting request or information request are not public records under § 25-19-103.

(e)(1) The Legislative Council may authorize the staff of the bureau to provide assistance to state agencies and constitutional officers in preparing legislation.

(2) If the Legislative Council authorizes the staff of the bureau to provide assistance to state agencies and constitutional officers in preparing legislation, the request, supporting documents, working papers, and drafts in the possession of the bureau are confidential and are not public records under § 25-19-103.

(f) Nothing in this section prohibits a legislative employee from working on similar or identical drafting requests or information requests from more than one (1) legislator.

**History.** Acts 2005, No. 1559, § 1;  
2015, No. 554, § 2.

### **10-2-130. Use of education studies commissioned by General Assembly.**

(a)(1) Any cost study analysis, cost study audit, adequacy study, or other study commissioned or funded by the General Assembly concerning the state's education system and any conclusion or recommendation resulting from a cost study analysis, cost study audit, adequacy study, or other study concerning the state's education system is not binding upon the General Assembly.

(2) The General Assembly may reject at any time any analysis, audit, or study and any conclusion or recommendation resulting from an analysis, audit, or study concerning the state's education system.



(b) A cost study analysis, cost study audit, adequacy study, or other study concerning the state’s education system shall include, but is not limited to:

- (1) Studies conducted under § 10-3-2101 et seq.; and
- (2) Any study concerning the adequacy or equitability of the state’s education system, including, but not limited to, the state’s method of funding public school districts.

**History.** Acts 2006 (1st Ex. Sess.), No. 37, § 1; 2021, No. 471, § 1. deleted “and Acts 2003, No. 1181 [expired]” preceding “and” in (b)(1).  
**Amendments.** The 2021 amendment

**10-2-132. People First advisory legislative sessions concerning disability issues.**

Each biennium, the House of Representatives and the Senate shall establish a People First advisory legislative session concerning disability issues and authorize staff assistance to conduct the People First advisory legislative session.

**History.** Acts 2013, No. 769, § 1.

**SUBCHAPTER 2 — COMPENSATION AND EXPENSES**

SECTION.	SECTION.
10-2-212. Per diem and mileage reimbursement.	committee chairs, vice chairs, and cochairs.
10-2-215. Expense reimbursement for	10-2-216. [Repealed.]

**Effective Dates.** Identical Acts 2015, Nos. 555 and 556, § 5: Mar. 20, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the under Amendment 94 the Independent Citizens Commission submitted a recommendation regarding expense reimbursement to the Speaker of the House and the President Pro Tempore of the Senate; that the Speaker of the House and the President Pro Tempore of the Senate in coordination with the Independent Citizens Commission are implementing the recommendations submitted; and that this act is im-

mediately necessary to ensure that provisions of Amendment 94 are carried out in accordance with its language. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

**10-2-212. Per diem and mileage reimbursement.**

(a)(1) The Senate Efficiency Committee shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service

guidelines, the amount of per diem and mileage reimbursement to be paid from Senate appropriations.

(2) Subdivision (a)(1) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(b)(1)(A) The Speaker of the House of Representatives shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, the amount of per diem and mileage reimbursement to be paid from House of Representatives appropriations.

(B) The Speaker of the House of Representatives shall notify the House of Representatives disbursing officer regarding the actions of the Speaker of the House of Representatives under this subsection.

(2) Subdivision (b)(1) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(c) A member of the General Assembly shall not file with the House of Representatives or Senate claims for per diem or mileage reimbursement in excess of the maximum amount prescribed by law.

**History.** Acts 1971, No. 274, § 2; 1975, 1995, No. 1312, §§ 12, 22; 1997, No. 1285, No. 169, § 1; A.S.A. 1947, § 4-139; Acts §§ 14, 19; 2007, No. 288, § 1, 2; 2015, No. 1991, No. 969, § 1; 1991, No. 1240, § 1; 555, § 2; 2015, No. 556, § 2.

### **10-2-215. Expense reimbursement for committee chairs, vice chairs, and cochairs.**

(a)(1) The chair of each of the standing, select, and joint committees of either house of the General Assembly, the cochairs of the Legislative Council and the chairs of each subcommittee of the Legislative Council, the cochairs of the Legislative Joint Auditing Committee and the chairs of each subcommittee of the Legislative Joint Auditing Committee, the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives, the Speaker Designate of the House of Representatives, the President Pro Tempore of the Senate, the President Pro Tempore Designate of the Senate, the House and Senate chairs of the Review/PEER Subcommittee of the Joint Budget Committee, the Personnel Subcommittee of the Joint Budget Committee, the Claims Subcommittee of the Joint Budget Committee, and the Special Language Subcommittee of the Joint Budget Committee, and the cochair of any committee of the General Assembly which does not function during the legislative session shall be eligible to receive an additional three thousand six hundred dollars (\$3,600) per year for reimbursement of legislative expenses incurred.

(2)(A) The vice chair of each of the standing, select, and joint committees of either house of the General Assembly and the vice chairs of the Legislative Council shall be eligible to receive two



thousand four hundred dollars (\$2,400) per year for reimbursement of legislative expenses incurred.

(B) If a member of the General Assembly is eligible to receive payment under this subdivision (a)(2) due to service in more than one (1) covered position, the member shall be eligible to receive three thousand six hundred dollars (\$3,600) per year for reimbursement of legislative expenses incurred.

(3)(A) The chair of each subcommittee of each standing committee of either house shall be eligible to receive an additional one thousand eight hundred dollars (\$1,800) per year for reimbursement of legislative expenses incurred.

(B) If a member of the General Assembly is eligible to receive payment under this subdivision (a)(3) due to service in more than one (1) covered position, the member shall be eligible to receive three thousand six hundred dollars (\$3,600) per year for reimbursement of legislative expenses incurred.

(4) A member of the General Assembly shall not receive more than three thousand six hundred dollars (\$3,600) per year under this section for reimbursement of legislative expenses incurred.

(b) The chair of a committee established by rule of the House of Representatives or the Senate also may receive reimbursement of legislative expenses incurred under subsection (a) of this section if authorized by rule of the House of Representatives or the Senate.

(c)(1)(A) A member of the Senate may seek reimbursement for expenses under subsection (a) or subsection (b) of this section by filing a signed statement of legislative expenses incurred during each calendar month with the Secretary of the Senate.

(B) Expenses shall be paid from funds appropriated for such purposes for the use of the Senate.

(2)(A) A member of the House of Representatives may seek reimbursement for expenses under subsection (a) or subsection (b) of this section by filing a signed statement of legislative expenses incurred during each calendar month with the Coordinator of House Legislative Services.

(B) Expenses shall be paid from funds appropriated for such purposes for the use of the House of Representatives.

(d) A member of the General Assembly shall not file with the House of Representatives or Senate claims for expense reimbursement in excess of the maximum amount prescribed by law.

**History.** Acts 1987, No. 935, § 13; 1989 § 16; 2005, No. 2100, § 14; 2007, No. 288, (1st Ex. Sess.), No. 3, § 12; 1991, No. 7, § 3; 2009, No. 2, § 5; 2009, No. 84, § 1; § 12; 1991, No. 969, § 3; 1991, No. 1240, 2009, No. 248, § 1; 2011, No. 1, § 3; 2015, § 3; 1995, No. 1312, § 15; 1997, No. 1285, No. 555, § 3; 2015, No. 556, § 3.

## 10-2-216. [Repealed.]

**Publisher's Notes.** This section, concerning reimbursement for legislative services personnel, was repealed by identical Acts 2015, Nos. 555 and 556, § 4. The



section was derived from Acts 1989 (1st Ex. Sess.), No. 143, § 14; 1989 (1st Ex. Sess.), No. 204, § 13; 1991, No. 30, § 13.

## CHAPTER 3 COMMITTEES

### SUBCHAPTER.

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19. ARKANSAS STATE GAME AND FISH COMMISSION OVERSIGHT COMMITTEE. [EXPIRED.]
21. CONTINUING ADEQUACY EVALUATION ACT OF 2004.
22. ACADEMIC FACILITIES OVERSIGHT COMMITTEE.
23. ARKANSAS LEGISLATIVE TASK FORCE ON ABUSED AND NEGLECTED CHILDREN ACT. [EXPIRED.]
25. ARKANSAS CYBERINFRASTRUCTURE TASK FORCE ACT. [REPEALED.]
26. ARKANSAS LEGISLATIVE TASK FORCE ON AUTISM ACT.
27. ARKANSAS HEALTH INSURANCE MARKETPLACE LEGISLATIVE OVERSIGHT COMMITTEE.
28. LEGISLATIVE TASK FORCES CONCERNING CRIMINAL JUSTICE.
29. SPECIALTY COURT PROGRAM ADVISORY COMMITTEE.
30. BEHAVIORAL HEALTH TREATMENT ACCESS LEGISLATIVE TASK FORCE. [EXPIRED.]
31. HIGHWAY COMMISSION REVIEW AND ADVISORY SUBCOMMITTEE OF THE LEGISLATIVE COUNCIL.
32. CHILD MALTREATMENT INVESTIGATIONS OVERSIGHT COMMITTEE.

### SUBCHAPTER 2 — INTERIM COMMITTEES GENERALLY

#### SECTION.

- 10-3-203. Interim committees established — Members — Jurisdiction.
- 10-3-208. [Repealed.]

#### SECTION.

- 10-3-220. Monitoring of changes made in federal income tax laws and regulations — Reports of secretary.

**A.C.R.C. Notes.** Acts 2021, No. 577, § 1, provided: "Findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas's creative economy consists of many industries, including:

"(A) Agriculture and agribusiness;

"(B) Tourism and recreation;

"(C) Health and wellness;

"(D) Technology;

"(E) Consumer products; and

"(F) Cottage industries; and

"(2) The Arkansas nonprofit arts and culture sector is critical to Arkansas's cultural and economic success:

"(A) Two billion nine hundred thousand dollars (\$2,900,000,000) of the Arkansas's gross domestic product is generated by the nonprofit arts and culture sector.

"(B) Arkansas has thirty-three thousand seven hundred twenty nine (33,729) jobs in the nonprofit arts sector.

"(C) Thirty percent (30%) of all employees in the state of Arkansas work in creative industries.

"(3)(A) Arkansas abounds with culture and creativity. This strengthens the economy, drives tourism and business, and improves economic performance.



“(B) The arts in Arkansas celebrate and bring visibility to the richness and diversity of the culture, history, and potential of all Arkansans.

“(4)(A) The arts and creative experiences play a vital role in supporting and improving quality of life across Arkansas.

“(B) Ninety-one percent (91%) of Arkansans believe the arts are necessary for a well-rounded K-12 education.

“(C) Eighty-two percent (82%) of Arkansans believe the arts are critical to local businesses and the economy.

“(D) Seventy-two percent (72%) of Arkansans believe the arts unify communities and seventy-three percent (73%) believe the arts help them to better understand other cultures.

“(E) The arts spur economic growth for communities during recovery from disaster, trauma and pandemics.

“(5) It is desirable to identify and bring together existing groups, organizations, and other initiatives working on the intersection of the arts and technology to:

“(A) Identify state-wide programming gaps for digital arts and technology;

“(B) Bring together arts and technology public school teachers to share ideas; and

“(C) Stimulate new partnerships to help grow Arkansas’s creative economy.

“(b) It is the intent of the General Assembly to create a Legislative Arts and Technology Boot Camp that will hold one (1) or more boot camps to share ideas that can help grow Arkansas’s creative economy.”

Acts 2021, No. 577, § 2, provided: “Legislative Arts and Technology Boot Camp — Creation and duties.

“(a) The Legislative Arts and Technology Boot Camp is created and consists of the following:

“(1) Eight (8) members appointed from the Senate membership by the President Pro Tempore of the Senate;

“(2) Eight (8) members appointed from the membership of the House of Representatives by the Speaker of the House of Representatives;

“(3) The Senate lead sponsor of this act or his or her designee, who shall serve as a cochair of the boot camp; and

“(4) The House lead sponsor of this act or his or her designee, who shall serve as a cochair of the boot camp.

“(b)(1) If a vacancy occurs on the boot camp, the vacancy shall be filled by the same process as the original appointment.

“(2) Members of the boot camp shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.

“(c)(1) The cochairs of the boot camp shall call the first meeting of the boot camp by October 1, 2021.

“(2) Meetings of the boot camp shall be held at the call of the cochairs.

“(3) The boot camp shall establish rules and procedures for conducting its business.

“(4) The Bureau of Legislative Research shall provide staff for the boot camp.

“(d)(1) The appointments in subsection (a) of this section shall be made no later than thirty (30) days after the effective date of this act [July 28, 2021].

“(2) The boot camp expires August 31, 2022.

“(e)(1) By August 31, 2022, the boot camp shall issue a final written report, which shall include without limitation:

“(A) An inventory of Arkansas’s state-wide arts and cultural assets, to be organized by creative economy industry clusters;

“(B) An assessment of:

“(i) The amount of funding needed for Arkansans for the Arts to create, update, and maintain a statewide database that contains an inventory of Arkansas’s arts and cultural assets for each of the Arkansas Arts Council’s eight (8) art districts; and

“(ii) The options for and practicability of obtaining that amount of funding; and

“(C) A plan for identifying and leveraging current and future assets and talents in the areas of arts and technology.

“(2) The report required under subdivision (e)(1) of this section shall be made available to the public and shall be delivered to:

“(A) The Governor;

“(B) The Legislative Council or, if the General Assembly is in session, the Joint Budget Committee;

“(C) The Arkansas Economic Development Commission;

“(D) The Arkansas Planning and Development Districts and

“(E) Any other relevant state agencies.

“(f) To develop the information needed for the report under subsection (e) of this section, the boot camp shall hold one (1) or



more boot camps as described in Section 3 of this act.”

Acts 2021, No. 577, § 3, provided: “Arts and Technology Boot Camps — Purpose and composition.

“(a) The primary, though not exclusive, means by which the Legislative Arts and Technology Boot Camp shall obtain the information needed for the report required under Section 2 of this act is through assembling and conducting one (1) or more meetings to be known as an ‘Arts and Technology Boot Camp’.

“(b) An Arts and Technology Boot Camp shall be composed of individuals invited by the Legislative Arts and Technology Boot Camp from any of the following:

- “(1) The Department of Commerce;
  - “(2) The Department of Education;
  - “(3) The Department of Parks, Heritage, and Tourism;
  - “(4) Public school teachers who teach arts or technology;
  - “(5) People involved in conducting career and technical education programs;
  - “(6) People involved in Environmental and Spatial Technologies (EAST) Initiative labs; and
  - “(7) Any other existing groups, organizations, or individuals working on or interested in the intersection of arts and technology.
- “(c) An Arts and Technology Boot Camp shall:
- “(1) Identify statewide gaps in the funding, talent, or assets in the areas of digital arts and technology programming;
  - “(2) Discuss the business of the arts in the following creative industries:

- “(B) Design;
- “(C) Media;
- “(D) Publishing and printing;
- “(E) Visual arts;
- “(F) Audio, music, and sound arts;
- “(G) Cultural sites;
- “(H) Performing arts;
- “(I) Film or animation;
- “(J) Culinary arts;
- “(K) Product design and development;
- “(L) Fashion design;
- “(M) Crafts; and
- “(N) Literary arts; and

“(3) Engage in any other discussions or provide any other information relevant to the report to be issued by the boot camp under Section 2 of this act.”

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 10-3-203. Interim committees established — Members — Jurisdiction.

There are established within the legislative department of government the following interim committees of the General Assembly as aids in the legislative process in this state:

(1) The Legislative Council, established pursuant to the provisions of § 10-3-301 et seq., shall consist of members of the General Assembly selected in the manner as is prescribed by law. The Legislative Council shall perform the functions and duties prescribed by law;

(2) The Legislative Joint Auditing Committee, established pursuant to § 10-3-401 et seq., shall consist of members of the General Assembly selected in the manner as is prescribed by law. The Legislative Joint



Auditing Committee shall perform the functions and duties prescribed by law; and

(3)(A) The following ten (10) subject matter interim committees of the House of Representatives, each to consist of the members who compose the respective standing committees of the House having comparable subject matter jurisdiction, plus such other nonvoting members as may be selected pursuant to the Rules of the House of Representatives, who shall be entitled to per diem and mileage for attending meetings of the committees:

(i) House Committee on Education — matters pertaining to public kindergarten, elementary, secondary, and adult education, vocational education, vocational-technical schools, vocational rehabilitation, higher education, private educational institutions, similar legislation, and resolutions germane to the subject matter of the House Committee on Education;

(ii) House Committee on Judiciary — matters pertaining to state and local courts, court clerks and stenographers and other employees of the courts, civil and criminal procedures, probate matters, civil and criminal laws, similar matters, and resolutions germane to the subject matter of the House Committee on Judiciary;

(iii) House Committee on Public Health, Welfare, and Labor — matters pertaining to public health, mental health, intellectual and other developmental disabilities, public welfare, human relations and resources, environmental affairs, water and air pollution, labor and labor relations, similar legislation, and resolutions germane to the subject matter of the House Committee on Public Health, Welfare, and Labor;

(iv) House Committee on Public Transportation — matters pertaining to roads and highways, city streets, county roads, highway safety, airports and air transportation, common and contract carriers, mass transit, similar legislation, and resolutions germane to the subject matter of the House Committee on Public Transportation;

(v) House Committee on Revenue and Taxation — matters pertaining to the levy, increase, reduction, collection, enforcement and administration of taxes and other revenue-producing measures, and resolutions germane to the subject matter of the House Committee on Revenue and Taxation;

(vi) House Committee on Aging, Children and Youth, Legislative and Military Affairs — matters pertaining to the aged and problems of aging; children and youth, military, veterans, legislative affairs, memorials, other matters whenever the subject matter is not germane to the subject matter of any other standing committee, and resolutions germane to the subject matter of the House Committee on Aging, Children and Youth, Legislative and Military Affairs;

(vii) House Committee on Agriculture, Forestry, and Economic Development — matters pertaining to agriculture, livestock, forestry, industrial development, natural resources, oil and gas, publicity and parks, levee and drainage, rivers and harbors, similar legislation,

and resolutions germane to the subject matter of the House Committee on Agriculture, Forestry, and Economic Development;

(viii) House Committee on City, County, and Local Affairs — matters pertaining to city and municipal affairs, county affairs, local improvement districts, interlocal government cooperation, similar legislation, and resolutions germane to the subject matter of the House Committee on City, County, and Local Affairs;

(ix) House Committee on Insurance and Commerce — matters pertaining to banks and banking, savings and loan associations, stock, bonds, and other securities, securities dealers, insurance, public utilities, partnerships and corporations, home mortgage financing and housing, similar legislation, and resolutions germane to the subject matter of the House Committee on Insurance and Commerce; and

(x) House Committee on State Agencies and Governmental Affairs — matters pertaining to state government and state agencies, except where the subject matter relates more appropriately to another committee, proposed amendments to the Constitution of the State of Arkansas or the federal government, election laws and procedures, federal and interstate relations, similar legislation, and resolutions germane to the subject matter of the House Committee on State Agencies and Governmental Affairs.

(B) The following nine (9) subject matter interim committees of the Senate, each to consist of the members who compose the respective standing committees of the Senate having comparable subject matter jurisdiction, plus such other nonvoting members as may be selected pursuant to the Rules of the Senate, who shall be entitled to per diem and mileage for attending meetings of the committees:

(i) Senate Committee on Public Health, Welfare, and Labor — matters pertaining to public health, mental health, intellectual and other developmental disabilities, public welfare, human relations and resources, the aged and problems of the aging, environmental affairs, water and air pollution, labor and labor relations, and similar legislation;

(ii) Senate Committee on Revenue and Taxation — matters pertaining to the levy, increase, reduction, collection, enforcement and administration of taxes, and other revenue-producing measures;

(iii) Senate Committee on Education — matters pertaining to public kindergarten, elementary, secondary, and adult education, vocational education, vocational-technical schools, vocational rehabilitation, higher education, private educational institutions, and similar legislation;

(iv) Senate Committee on Judiciary — matters pertaining to state and local courts, court clerks and stenographers and other employees of the courts, civil and criminal procedures, probate matters, civil and criminal laws, and similar matters;

(v) Senate Committee on Agriculture, Forestry, and Economic Development — matters pertaining to agriculture, livestock, forestry,



industrial development, natural resources, oil and gas, publicity and parks, levees and drainage, rivers and harbors, and similar legislation;

(vi) Senate Committee on Insurance and Commerce — matters pertaining to banks and banking, savings and loan associations, stocks, bonds, and other securities, securities dealers, insurance, public utilities, partnerships and corporations, home mortgage financing and housing, and similar legislation;

(vii) Senate Committee on State Agencies and Governmental Affairs — matters pertaining to state government and state agencies, except where the subject matter relates more appropriately to another committee, proposed amendments to the Constitution of the State of Arkansas or the federal government, election laws and procedures, federal and interstate relations, and similar legislation. The committee shall also have the responsibility of monitoring and making recommendations for periodic updating, modernizing, and revising the code of ethics for public officials;

(viii) Senate Committee on City, County, and Local Affairs — matters pertaining to city and municipal affairs, county affairs, local improvement districts, interlocal governmental cooperation, and similar legislation; and

(ix) Senate Committee on Public Transportation, Technology, and Legislative Affairs — matters pertaining to roads, highway safety, airports and air transportation, common carriers, mass transits, and similar legislation, and matters pertaining to science, technology, bio-technology, and similar legislation, and other matters whenever the subject matter is not germane to the subject matter of any other Class "A" or Class "B" Committee. The Senate Committee on Public Transportation, Technology, and Legislative Affairs shall serve as the supervisory committee over the preparation of the journal and the engrossing and enrolling of bills. The Senate Committee on Public Transportation, Technology, and Legislative Affairs shall have no jurisdiction of matters affecting the interpretation of the Rules of the Senate, but such jurisdiction shall be exercised by the Rules Committee of the Senate.

(C) Members of the ten (10) interim House committees and the nine (9) interim Senate committees established in this subsection may also serve as members of the Legislative Council or of the Legislative Joint Auditing Committee.

(D) Any member of the House who sponsors a proposal or resolution providing for a study which is referred to one (1) of the ten (10) House interim committees and any member of the Senate who sponsors a proposal or resolution providing for a study which is referred to one (1) of the nine (9) Senate interim committees may serve as an ex officio member of that committee during the conduct of the study resulting from his or her proposal or resolution.

(E) The respective House and Senate committees may meet separately or the House and Senate committees of comparable subject matter jurisdiction may meet jointly.

**History.** Acts 1973, No. 90, § 2; 1979, No. 50, § 1; 1979, No. 97, § 1; 1979, No. 310, § 1; 1983, No. 709, § 1; A.S.A. 1947, § 4-1001; Acts 1989, No. 541, § 1; 1995, No. 1350, § 1; 1995 (1st Ex. Sess.), No. 10, §§ 1, 2; 2001, No. 960, § 1; 2007, No. 1581, § 1; 2019, No. 1035, §§ 6, 7.

**A.C.R.C. Notes.** Acts 2019, No. 551, § 1, provided: "Arkansas Legislative Study on Veterans Affairs — Creation — Purpose.

"(a) The House Committee on Aging, Children and Youth, and Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs shall meet jointly to conduct the Arkansas Legislative Study on Veterans Affairs.

"(b)(1) The chair of the House Committee on Aging, Children and Youth, and Legislative and Military Affairs and the chair of the Senate Committee on State Agencies and Governmental Affairs shall call the first joint meeting of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs to begin the study within sixty (60) days of the effective date of this act [July 24, 2019].

"(2) In order to interact directly with veterans throughout the State of Arkansas, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs may hold meetings at various sites throughout the state.

"(3) Joint meetings of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs for the purpose of conducting the study shall be held at least one (1) time every three (3) months but may occur more often at the call of the chairs.

"(4) The members of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.

"(c)(1) The purpose of the study is to examine veterans' issues within the State of Arkansas, including without limitation

the occurrence of suicide among the veteran population in this state.

"(2) In carrying out the purpose of this act, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs shall:

"(A) Study risk factors for suicide in veterans;

"(B) Review and research options for preventing or reducing the occurrence of suicide among the veteran population in the state;

"(C) Examine mental health care available to veterans within the state;

"(D) Conduct at least one (1) town-hall-style meeting to hear from veterans in the state and their concerns regarding mental health care and other issues affecting veterans in the state;

"(E) Engage the following:

"(i) The Department of Veterans Affairs;

"(ii) The Department of Health; and

"(iii) Mental health professionals licensed to practice in this state;

"(F) Review best practices among other states;

"(G) Review methods to create a state-wide program targeting suicide prevention and preventative mental health care for veterans; and

"(H) Study and review other issues that the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs deem relevant to improving the productivity and wellness of veterans residing in this state.

"(d) The House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs may establish an advisory board to assist the committees in accomplishing the purposes of the study as stated in this act. If the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs determine that creation of an advisory board would be beneficial, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs shall adopt rules regarding the



membership and duties of the advisory board.

“(e) The House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Committee on State Agencies and Governmental Affairs shall file a final written report of their activities, findings, and recommendations with the Legislative Council on or before December 1, 2020, and the study shall be complete upon that submission.”

Acts 2019, No. 565, § 1, provided: “Legislative Findings and Intent.

“(a) Determining the maximum number of employees and the maximum amount of appropriation and funding for a state agency each fiscal year is the prerogative of the General Assembly.

“(b) It is the intent of the General Assembly that the Transformation and Efficiencies Act of 2019 to reorganize state government shall result in efficiencies to reduce the duplication of services and administrative costs to reduce overall state government general revenue expenditures.

“(c) Cabinet-level departments shall identify and eliminate excess administrative expenses, unnecessary expenditures, and duplication of services and present those savings and efforts to operate efficiently to the General Assembly as necessary and appropriate.

“(d)(1) The secretary of each cabinet-level department created by the Transformation and Efficiencies Act of 2019 shall submit and present to a joint meeting of the Senate Committee on State Agencies and Governmental Affairs and the House Committee on State Agencies and Governmental Affairs two (2) weeks prior to the first scheduled day of the fiscal session of 2020, a report that includes, without limitation information that shows:

“(A) A summary of the proposed reduction in the total general revenue expenditures of the transferred state entities compared to the general revenue expenditures of the transferred state entities in the 2019 fiscal year by no less than one percent (1%);

“(B) The 2019 fiscal year general revenue expenditures for each state entity that has been merged, consolidated or otherwise combined;

“(C) The total amount of general revenue expenditures for the 2019 fiscal year by each cabinet-level department, includ-

ing the identification of all funding sources of the cabinet-level department;

“(D) The total number of positions currently authorized for each state entity that has been transferred, merged, consolidated, or otherwise combined and a total for each cabinet-level department; and

“(E) A detailed statement of each cabinet-level departments plan to reduce general revenue expenditures and create efficiency including without limitation:

“(i) The elimination of certain positions;

“(ii) The reduction in operating expenses;

“(iii) The elimination or reduction of programs or services and the cost of the programs or services; and

“(iv) Other reductions in expenses or costs that may be identified.

“(2) The secretary of each cabinet-level department shall submit his or her report to the Governor or his or her designee for approval before submitting the report to the General Assembly.

“(3) It is the intent of the General Assembly that the secretary of each cabinet-level department under the direction of the Governor, has the initiative and resourcefulness to implement efficiency measures that benefit the State of Arkansas.

“(e) Funding for the Department of Education Public School Fund Account for kindergarten through grade twelve (K-12), Medicaid, or any state institution of higher education, board, commission, constitutional officer, or state agency that was not transferred, merged, consolidated, or otherwise combined by the Transformation and Efficiencies Act of 2019 as enacted by the General Assembly shall be exempt from the requirements of this section.

“(f)(1) The Senate Committee on State Agencies and Governmental Affairs and the House Committee on State Agencies and Governmental Affairs are authorized to meet jointly to review each cabinet-level departments plan to reduce general revenue expenditures as set out in this section.

“(2) The Chair of the Senate Committee on State Agencies and Governmental Affairs and the Chair of the House Committee on State Agencies and Governmental Affairs, or his or her designee, shall alter-

nate the acting chair for the joint meetings required by this section.”

Acts 2019, No. 671, § 1, provided: “ATV Tourism and Trail Expansion Study — Creation — Duties.

“(a) The General Assembly finds that:

“(1) Arkansas offers an abundance of all-terrain vehicle parks and trails that attract nationwide all-terrain vehicle tourism to the state;

“(2) Many small businesses rely heavily on the tourism generated by all-terrain vehicle parks and trails;

“(3) A large number of the state’s all-terrain vehicle trails are located within national forests, and riding all-terrain vehicles is one of the fastest-growing recreational uses of the state’s national forests; and

“(4) State parks currently do not allow use of all-terrain vehicles on state forest roads.

“(b) The House Agriculture, Forestry, and Economic Development Committee and the Senate Agriculture, Forestry, and Economic Development Committee shall meet jointly to conduct the ATV Tourism and Trail Expansion Study.

“(c)(1) The chairs of the House Agriculture, Forestry, and Economic Development Committee and the Senate Agriculture, Forestry, and Economic Development Committee shall call the first joint meeting for purposes of beginning the study within sixty (60) days of the effective date of this act [July 24, 2019].

“(2) Joint meetings for purposes of conducting the study may be held at various sites around the state in order to study all-terrain vehicle tourism and existing and potential all-terrain vehicle trail sites. All meetings shall be open public meetings under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

“(3) Joint meetings for purposes of conducting the study shall be held at least one (1) time every three (3) months but may occur more often at the call of the chairs.

“(d) The purpose of the study is to make recommendations to the General Assembly regarding the creation, development, and implementation of a statewide all-terrain vehicle trails system utilizing existing state roads to connect forest roads

and all-terrain vehicle trails in national forests in order to:

“(1) Increase all-terrain vehicle tourism and economic development in the state; and

“(2) Promote the economic well-being of small businesses catering to all-terrain vehicle tourism.

“(e) In order to fulfill the purpose of this act, the House Agriculture, Forestry, and Economic Development Committee and the Senate Agriculture, Forestry, and Economic Development Committee shall conduct a study to include without limitation the following:

“(1) The feasibility of creating a statewide all-terrain vehicle trails system;

“(2) Criteria for acceptance of an existing state road into the statewide all-terrain vehicle trails system;

“(3) Issues surrounding administration of the statewide all-terrain vehicle trails system, including consulting with the Arkansas Department of Transportation and the Department of Parks and Tourism; and

“(4) Similar all-terrain trails systems in other states.

“(f) On or before December 1, 2020, the House Agriculture, Forestry, and Economic Development Committee and the Senate Agriculture, Forestry, and Economic Development Committee shall file with the Legislative Council a final written report of their activities, findings, and recommendations, and the study shall be complete upon that submission.”

Acts 2021, No. 421, § 1, provided: “Legislative study of and report on the use of certain election technology — Purpose — Scope — Requirements.

“(a)(1) The House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs shall meet jointly to conduct a study of election technology, including without limitation the use of biometric data and ballot tracking.

“(2) The Chair of the House Committee on State Agencies and Governmental Affairs and the Chair of the Senate Committee on State Agencies and Governmental Affairs may invite the House Committee on City, County, and Local Affairs and the Senate Committee on City, County, and Local Affairs to meet with the House Committee on State Agencies and Governmental Affairs and the Senate Committee on



State Agencies and Governmental Affairs for purposes of the study required under this section.

“(b)(1) The purpose of the study required under this section is to study the possible use of certain election technology to increase transparency and security.

“(2) The study required under this section shall include without limitation:

“(A) An assessment of the potential use of biometric data for elections, including without limitation the voluntary use of fingerprints and facial recognition technology;

“(B) An examination of the procedures and changes necessary to allow for ballot tracking, including without limitation the voluntary use of ballot numbers to allow voters to track their ballots and ensure their votes are recorded correctly;

“(C) An assessment of the potential use of mobile polling stations; and

“(D) Any other election technologies the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs determine should be studied to increase election transparency and security.

“(c) The Secretary of State shall assist the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs with any information needed to complete the study required under this section.

“(d) Joint meetings for purposes of conducting the study required under this section shall be held at the call of the Chair of the House Committee on State Agencies and Governmental Affairs and the Chair of the Senate Committee on State Agencies and Governmental Affairs.

“(e) On or before November 30, 2022, the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs shall submit to the Legislative Council a final written report of their activities, findings, and recommendations with regard to the study required under this section, including without limitation:

“(1) Findings on the election technology the state should adopt to increase transparency and security; and

“(2) Recommended draft legislation to address the findings of the study, including any recommended legislation.

“(f) The study required under this section shall be complete upon submission of the final written report to the Legislative Council required under subsection (e) of this section.”

Acts 2021, No. 574, § 1, provided: “Study of best practices for reducing the number of children in foster care — Creation — Purpose.

“(a) The House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall meet jointly to conduct a study of the best practices for reducing the number of children in foster care.

“(b)(1) The purpose of the study is to study the best practices for reducing the number of children in foster care in the state.

“(2) The study shall include without limitation:

“(A) An assessment of the number of children in foster care;

“(B) An examination of the state’s current practices and policies aimed at reducing the number of children in foster care and the efficacy of those practices and policies;

“(C) An examination of the methods other states use to reduce the number of children in foster care and the efficacy of those methods; and

“(D) The formulation of a plan for the state to implement the best practices to reduce or eliminate the number of children in foster care, including without limitation increased funding, education, advertisement, and support.

“(c) Within sixty (60) days of the effective date of this act [July 28, 2021], the Department of Human Services shall submit to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth a report of:

“(1) The number of children in foster care in the state; and

“(2) The practices and policies the state is currently using to reduce the number of children in foster care in the state.

“(d) Joint meetings for purposes of conducting the study shall be held at least one (1) time every two (2) months but may occur more often at the call of the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Af-

fairs and the Chair of the Senate Interim Committee on Children and Youth.

“(e) On or before December 1, 2022, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall submit to the Legislative Council a final written report of their activities, findings, and recommendations with regard to the study under this act, including without limitation:

“(1) Findings on the adequacy of the state’s practices and policies aimed at reducing the number of children in foster care; and

“(2) Recommended draft legislation to address the findings of the study.

“(f) If the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth determine that it is necessary, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth may contract with one (1) or more outside consultants to assist with study required under this section.

“(g) The study under this act shall be complete upon submission of the final report to the Legislative Council.”

Acts 2021, No. 802, § 1, provided: “Arkansas Legislative Study on Mental and Behavioral Health — Creation — Duties.

“(a)(1) The Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall meet to conduct the Arkansas Legislative Study on Mental Health.

“(b)(1) The Chair of the Senate Committee on Public Health, Welfare, and Labor and the Chair of the House Committee on Public Health, Welfare, and Labor shall call the first meeting for the purpose of beginning the study within sixty (60) days of the effective date of this act [July 28, 2021].

“(2) The Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall meet at least one (1) time every two (2) months in order to conduct the study but may meet more often at the call of the Chair of the Senate Committee on Public Health, Welfare, and Labor and the Chair of the House Committee on Public Health, Welfare, and Labor.

“(c) The purpose of the study is to assess the strengths and weaknesses of the mental and behavioral health resources and care currently available in the State of Arkansas and to recommend legislation to the General Assembly regarding best practices and improvements within the area of mental and behavioral health care for consideration during the 2023 Regular Session.

“(d) In order to achieve the purpose of this section, the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall study the following:

“(1) Access to and availability of mental and behavioral health care within this state;

“(2) Existing mental and behavioral healthcare facilities in this state;

“(3) Medicaid programs regarding mental and behavioral health and other public and private medical reimbursements for mental and behavioral healthcare providers and facilities within and without this state;

“(4) Best practices for provision of mental and behavioral health services;

“(5) Mental and behavioral health programs in other states;

“(6) The utilization and financial condition of the crisis stabilization units and the Arkansas State Hospital;

“(7) Transportation of mental and behavioral health patients in Arkansas;

“(8) The rate of deaths by suicide of school-aged children in this state;

“(9) Mental health screenings and suicide prevention measures for children in kindergarten through grade twelve (K-12); and

“(10) Other matters related to mental and behavioral health services.

“(e)(1) On or before December 1, 2022, the Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall file with the Legislative Council a final written report of their activities, findings, and recommendations.

“(2) Upon filing, the Arkansas Legislative Study on Mental and Behavioral Health shall be complete.”

Acts 2021, No. 1092, § 1, provided: “Legislative findings — Legislative study of and report on commercial application of existing technology to reclaim and repur-



pose spent nuclear fuel rods — Creation — Purpose.

“(a) The General Assembly finds that:

“(1) In August 2016, the Argonne National Laboratory hosted a delegation from Arkansas, including staff from the Arkansas Economic Development Commission;

“(2) In January 2017, the Arkansas Alternative Energy Commission issued a recommendation to Governor Asa Hutchinson to support the University of Arkansas and the United States Department of Energy national laboratories to prepare and make recommendations and to offer options on using existing technology to convert spent nuclear fuel rods into new nuclear fuel;

“(3) In August 2017, the Joint Committee on Energy held hearings on advanced nuclear technology to reprocess spent nuclear fuel rods and unanimously approved an interim study resolution on the matter; and

“(4) In August 2018, the Joint Committee on Energy held a meeting at Arkansas Nuclear One and further discussed the issues under subdivision (a)(1)-(3) of this section, including without limitation that the:

“(A) University of Arkansas system, in conjunction with other institutions of higher education, can and are willing to provide a detailed analysis examining the benefits of ‘New Nuclear’ compared to the risks of continued storage of spent fuel at Arkansas Nuclear One;

“(B) Fast reactor technology and electrochemical spent fuel reprocessing is ready for commercial development; and

“(C) The Department of Health and the Department of Energy and Environment support the application for funding the establishment of an education, risk analysis, and optimization design program.

“(b) The House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor shall meet jointly to conduct a study on the commercial application of existing technology to reclaim and repurpose spent nuclear fuel rods.

“(c)(1) The Chair of the House Committee on Public Health, Welfare, and Labor and the Chair of the Senate Committee on Public Health, Welfare, and Labor shall call the first meeting for the purpose of beginning the study required by this sec-

tion within sixty (60) days of the effective date of this act [July 28, 2021].

“(2) The Chair of the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor shall meet jointly at least one (1) time every two (2) months in order to conduct the study but may meet more often at the call of the chairs.

“(d) If the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor determine that it is necessary, the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor may contract with one (1) or more outside consultants to assist the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor with their study.

“(e)(1) The purpose of the study required under this section is to study the commercial application of existing technology to reclaim and repurpose spent nuclear fuel rods.

“(2) The study required under this section shall include without limitation:

“(A) An assessment of a specific program to offer to the federal government to include a proposed location in Arkansas and for the assets required to close the nuclear fuel cycle and request funding for the establishment of an education, risk analysis, and optimization design program; and

“(B) The assembly of a team of interested stakeholders with expertise to submit a funding application to the United States Department of Energy, including without limitation individuals from the:

“(i) General Assembly;

“(ii) Executive department;

“(iii) University of Arkansas; and

“(iv) Argonne National Laboratory.

“(f) On or before December 1, 2022, the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor shall file with the Legislative Council a final written report of their activities, findings, and recommendations.

“(g) The study required under this section shall be complete upon submission of the final written report to the Legislative Council required under subsection (f) of this section.”

**Amendments.** The 2019 amendment substituted “intellectual and other devel-

opmental disabilities” for “mental retardation” in (3)(A)(iii) and (3)(B)(i).

### 10-3-208. [Repealed.]

**Publisher’s Notes.** This section, concerning subpoenas, was repealed by Acts 2013, No. 1465, § 1. The section was de-

rived from Acts 1973, No. 90, § 11; A.S.A. 1947, § 4-1010; Acts 2009, No. 1465, § 6.

### 10-3-220. Monitoring of changes made in federal income tax laws and regulations — Reports of secretary.

(a) The Secretary of the Department of Finance and Administration shall monitor changes made in federal income tax laws and regulations for the purpose of determining how the changes may affect Arkansas income tax law and for the purpose of determining how the changes differ from provisions adopted for Arkansas income tax purposes.

(b) The secretary shall report his or her findings annually to the House Committee on Revenue and Taxation and the Senate Committee on Revenue and Taxation and may make such other reports to the House Committee on Revenue and Taxation and the Senate Committee on Revenue and Taxation as he or she deems necessary.

**History.** Acts 1989, No. 738, § 1; 1995 (1st Ex. Sess.), No. 10, § 14; 2019, No. 910, § 3372.

**Amendments.** The 2019 amendment substituted “Reports of secretary” for “Reports of director” in the section heading;

substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (a); and substituted “secretary” for “director” in (b).

## SUBCHAPTER 3 — LEGISLATIVE COUNCIL

#### SECTION.

10-3-303. Bureau of Legislative Research.

10-3-309. Review and approval of state agency rules — Definitions.

10-3-310. Compensation of executive secretary and employees — Cooperation with Council of State Governments — Reimbursement.

10-3-313. Meetings — Agenda — Procedures and practices.

10-3-314. [Repealed.]

#### SECTION.

10-3-317. Disclosure of school district information and records — Access to electronic databases of Division of Elementary and Secondary Education.

10-3-318. Review of occupational authorizations and occupational entities — Findings and intent — Definitions.

10-3-319. Medical Marijuana Advisory Subcommittee.

**Effective Dates.** Acts 2016 (3rd Ex. Sess.), No. 1, § 23; July 1, 2016. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Arkansas

bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health,



and safety; that increased funding is essential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016."

Acts 2017, No. 737, § 15: Mar. 29, 2017, § 11. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2017 is essential to the operation of the agency for which the appropriations in this Act are provided, with the exception that Section 11 in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2017, with the exception that Section 11 in this Act shall be in full force and effect from and after the date of its passage and approval, could

work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2017, with the exception that Section 11 in this Act shall be in full force and effect from and after the date of its passage and approval."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 10-3-303. Bureau of Legislative Research.

(a) There is established under the direction and control of the Legislative Council a Bureau of Legislative Research which shall consist of a director to be selected by the Legislative Council and other assistants as may be provided by legislative appropriation.

(b) The Director of the Bureau of Legislative Research shall be the Executive Secretary to the Legislative Council and shall attend all of its meetings and keep official records of all Legislative Council proceedings.

(c) It shall be the duty of the bureau acting under the direction of the director to:

(1) Make studies and investigations, upon direction of the Legislative Council, and secure factual information, prepare reports, and draft legislation as may be required by the Legislative Council or any of its subcommittees;

(2) Assist all members of the General Assembly upon request while the General Assembly is in regular session, fiscal session, or special session in drafting bills and resolutions, and making studies, preparing factual information, and by performing other services for members of the General Assembly as may be reasonably requested and which are in aid of the performance of the legislative duties of the members of the General Assembly;

(3) Assist all members of the General Assembly when the General Assembly is not in session in connection with any reasonable request in preparing proposed bills or resolutions for introduction in the General Assembly when in session by compiling factual information, making studies, providing legal assistance, and performing other duties which assist members of the General Assembly in performing their official legislative duties;

(4)(A) Maintain a limited legislative reference library service for legislative matters, utilizing print material, digital media, and information available through the internet. The bureau shall collect and make available in the most suitable form information relative to governmental subjects that will aid the General Assembly and bureau to perform their duties.

(B) The bureau shall cooperate with comparable legislative agencies in other states concerning the availability and exchange of publications in order that the General Assembly might be fully advised of current developments in the legislatures of the various states.

(C) The bureau shall maintain files or digital copies of bills introduced at the various legislative sessions that may or may not have been enacted by the General Assembly;

(5) Prepare research reports and provide other staff services to the Legislative Council or its subcommittees with respect to studies undertaken by the Legislative Council at the direction of the General Assembly, or either house thereof, or upon request of any member of the General Assembly;

(6) Assist the Legislative Council in its study of the budgetary and fiscal needs of the various state agencies and cooperate with the Department of Finance and Administration and other agencies of this state upon direction of the Legislative Council in the preparation of a budget manual reflecting the Legislative Council's budgetary recommendations to each session of the General Assembly;

(7) Cooperate with comparable legislative service agencies in other states by exchanging information of legislative interest and participate in conferences or workshops on a regional or national basis organized for the purpose of exchanging information or discussing means and methods of improving services to legislatures and legislators in connection with the performance of their official duties; and

(8) Perform any other duties and assignments as may be directed by the Legislative Council or by the General Assembly.

(d) The agenda of each session of the Legislative Council shall be prepared by the director under the direction of the cochair of the



Legislative Council, and the agenda shall consist of any proposals as may be submitted by the members of the General Assembly, the Governor of the State of Arkansas, and such other matters as may be suggested by matters of public interest.

(e) The bureau is a service agency within the legislative department of government and all members of the General Assembly shall have access thereto. The bureau shall be operated for the benefit of and the assistance to every member of the General Assembly to the end that legislative matters may be coordinated and the General Assembly assisted in its deliberations. The director and all employees of the bureau are declared to be employees of the General Assembly and shall be responsible to the General Assembly.

(f) There is established the Executive Subcommittee of the Legislative Council to be composed of the following members:

- (1) The House and Senate cochairs of the Legislative Council;
- (2) The House and Senate co-vice chairs of the Legislative Council;
- (3) The President Pro Tempore of the Senate or one (1) senator selected by the President Pro Tempore of the Senate;
- (4) The Speaker of the House of Representatives or one (1) representative selected by the Speaker of the House of Representatives;
- (5) The immediate past Senate Cochair of the Legislative Council or one (1) member designate appointed by the Senate Cochair of the Legislative Council; and
- (6) The immediate past House Cochair of the Legislative Council or one (1) member designate appointed by the House Cochair of the Legislative Council.

(g)(1) The Executive Subcommittee of the Legislative Council may require the director to report and regularly seek the review and advice of the Executive Subcommittee of the Legislative Council prior to:

- (A) Taking actions regarding establishing new, repealing, or changing personnel policies pertaining to employees of the bureau;
- (B)(i) Taking actions concerning the hiring or termination of staff, staff promotions, and proposed salary changes.

(ii) Nothing in this section shall be construed to create an employment contract, any salary obligation, other obligation, or change in employment status of staff of the bureau from an at-will employment relationship; or

(C) Establishing new, repealing, or changing any other policies or procedures of the bureau relating to the delivery of services and other matters pertaining to the operation of the bureau, including the annual budget request of the bureau.

(2) The Executive Subcommittee of the Legislative Council may meet and transact business both during a session of the General Assembly and during the interim between sessions of the General Assembly. If during a legislative session the Executive Subcommittee of the Legislative Council takes action that requires approval by the Legislative Council, the approval may be granted either by the Legislative Council, if authorized to meet, or by the Joint Budget Committee.

(h)(1) The bureau may employ outside legal counsel as deemed necessary by the director after receiving prior approval of the Executive Subcommittee of the Legislative Council.

(2) If the Executive Subcommittee of the Legislative Council approves the employment of outside legal counsel by the bureau, no additional approval is required.

**History.** Acts 1949, No. 264, §§ 5, 10; 665, § 1; 2009, No. 962, § 16; 2015, No. 1965, No. 500, § 1; A.S.A. 1947, §§ 4-621, 1150, § 1; 2017, No. 737, § 11.  
4-626; Acts 2005, No. 2100, § 18; 2007, **Amendments.** The 2017 amendment  
No. 18, § 1; 2007, No. 319, § 2; 2007, No. added (h).

### **10-3-309. Review and approval of state agency rules — Definitions.**

(a)(1)(A) In the passage of this section, the General Assembly is aware of the significant number of laws which have been enacted granting to boards, commissions, departments, and administrative agencies of state government the authority to promulgate and enforce rules.

(B) The General Assembly is further aware that ample safeguards have not been established whereby the General Assembly may be informed of circumstances in which administrative rules do not conform to legislative intent.

(2) It is the purpose of this section to establish a method for continuing legislative review and approval of such rules to correct abuses of rulemaking authority or clarify legislative intent with respect to the rulemaking authority granted the administrative boards, commissions, departments, or agencies.

(b) As used in this section:

(1)(A) "Rule" means a state agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice of a state agency and includes without limitation the amendment or repeal of a prior rule.

(B) "Rule" does not mean:

(i) A statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public;

(ii) A declaratory order or ruling issued under § 25-15-206 or other provision of law applicable to the state agency issuing the declaratory order or ruling;

(iii) Intraagency memoranda; or

(iv) A medical code within the Arkansas Medicaid Program that is issued by the Centers for Medicare and Medicaid Services, including without limitation:

(a) Current Procedural Terminology codes;

(b) Healthcare Common Procedure Coding System codes;

(c) International Classification of Diseases codes;



(d) National Uniform Billing Committee Official UB-04 Data Specifications Manual codes; and

(e) National Correct Coding Initiative codes; and

(2)(A) "State agency" means an office, board, commission, department, council, bureau, or other agency of state government having authority to promulgate or enforce rules.

(B) "State agency" does not include the following unless the Legislative Council adopts rules under subsection (h) of this section that include one (1) or more of the following in the definition of "state agency":

(i) The Arkansas State Game and Fish Commission, if the rule is not promulgated under authority of a statute enacted by the General Assembly;

(ii) Except as provided in § 10-3-3102 and § 27-65-107(a)(18)(A), the State Highway Commission and the Arkansas Department of Transportation, if the rule is not promulgated under authority of a statute enacted by the General Assembly; and

(iii) An institution of higher education.

(c)(1) A state agency shall file a proposed rule with the Legislative Council at least thirty (30) days before the expiration of the period for public comment on the rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other laws or policies pertaining to the rulemaking authority of that state agency.

(2) The Legislative Council shall assign proposed rules to the Administrative Rules Subcommittee of the Legislative Council.

(3)(A)(i) The proposed rule shall be reviewed by the Administrative Rules Subcommittee of the Legislative Council.

(ii) When reviewing a rule under subdivision (c)(3)(A)(i) of this section, the Administrative Rules Subcommittee of the Legislative Council shall allow members of the public a reasonable opportunity to comment on the proposed rule.

(B)(i)(a) Except as set forth in subdivision (c)(3)(B)(ii) of this section, upon conclusion of the review of the proposed rule by the Administrative Rules Subcommittee of the Legislative Council, the proposed rule shall be considered approved unless a majority of a quorum present request that the Administrative Rules Subcommittee of the Legislative Council vote on the issue of approving the proposed rule.

(b) If the Administrative Rules Subcommittee of the Legislative Council votes on the issue of approving the proposed rule, the proposed rule shall be approved unless a majority of a quorum present vote for the proposed rule to not be approved.

(ii) A proposed rule submitted by the State Board of Health under § 20-7-604(d)(2)(D), concerning exemptions from the requirements of the Prescription Drug Monitoring Program, shall be considered reviewed and approved by the Administrative Rules Subcommittee of the Legislative Council upon an affirmative vote of three-fourths (3/4) of the members present when a quorum is present.

(4)(A)(i) Except as set forth in subdivision (c)(4)(B) of this section, a proposed rule approved by the Administrative Rules Subcommittee of the Legislative Council shall be considered approved by the Legislative Council unless a majority of a quorum present request that the Legislative Council vote on the issue of approving the proposed rule.

(ii) If the Legislative Council votes on the issue of approving the proposed rule, the proposed rule shall be approved unless a majority of a quorum present vote for the proposed rule to not be approved.

(B) A proposed rule submitted by the State Board of Health under § 20-7-604(d)(2)(D), concerning exemptions from the requirements of the Prescription Drug Monitoring Program, shall be considered reviewed and approved by the Legislative Council upon an affirmative vote of three-fourths ( $\frac{3}{4}$ ) of the members present when a quorum is present.

(5)(A)(i) If enacted legislation requires or results in more than one (1) state agency adopting, amending, or repealing rules on a similar subject matter:

(a) A state agency may request that all proposed rules filed with the Legislative Council regarding the enacted legislation be grouped together and reviewed and approved as a single group; or

(b) A member of the General Assembly may request that all proposed rules filed with the Legislative Council regarding the enacted legislation be grouped together and reviewed and approved as a single group.

(ii) If the proposed rules are grouped together under subdivision (c)(5)(A)(i) of this section, the proposed rules may be reviewed and approved as a single group by any of the following, as appropriate:

(a) The Legislative Council;

(b) The Administrative Rules Subcommittee of the Legislative Council;

(c) The Joint Budget Committee; or

(d) The Administrative Rule Review Subcommittee of the Joint Budget Committee.

(B) If the proposed rules are grouped together under subdivision (c)(5)(A)(i) of this section for review, the Legislative Council, the Administrative Rules Subcommittee of the Legislative Council, the Joint Budget Committee, or the Administrative Rule Review Subcommittee of the Joint Budget Committee, as appropriate, may:

(i) Separate the proposed rules if requested by:

(a) A member of the General Assembly; or

(b) One (1) of the state agencies that promulgated the proposed rules; and

(ii) Elect to approve one (1) or more of the proposed rules separated under subdivision (c)(5)(B)(i) of this section.

(d)(1) A state agency shall file a proposed emergency rule with the Executive Subcommittee of the Legislative Council.

(2) A proposed emergency rule shall be considered approved by the Executive Subcommittee of the Legislative Council if:



(A)(i) The proposed emergency rule is reviewed and approved at a meeting of the Executive Subcommittee of the Legislative Council.

(ii) After the review of a proposed emergency rule at a meeting of the Executive Subcommittee of the Legislative Council, the proposed emergency rule shall be considered approved unless a majority of a quorum present request that the Executive Subcommittee of the Legislative Council vote on the issue of approving the proposed emergency rule.

(iii) If the Executive Subcommittee of the Legislative Council votes on the issue of approving the proposed emergency rule, the proposed emergency rule shall be approved unless a majority of a quorum present vote for the proposed emergency rule to not be approved; or

(B)(i) A majority or more of the members of the Executive Subcommittee of the Legislative Council approve the proposed emergency rule in writing.

(ii) An approval in writing of a proposed emergency rule under subdivision (d)(2)(B)(i) of this section shall not constitute a meeting under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(3) A proposed emergency rule approved by the Executive Subcommittee of the Legislative Council shall be reported to the Administrative Rules Subcommittee of the Legislative Council.

(e)(1) The Joint Budget Committee shall establish the Administrative Rule Review Subcommittee.

(2)(A) The Administrative Rule Review Subcommittee shall consist of twenty-two (22) members of the General Assembly.

(B)(i) Nine (9) members of the Administrative Rule Review Subcommittee shall be appointed by the Senate Cochair of the Joint Budget Committee.

(ii) The Senate Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as Senate Cochair of the Administrative Rule Review Subcommittee.

(C)(i) Nine (9) members of the Administrative Rule Review Subcommittee shall be appointed by the House Cochair of the Joint Budget Committee.

(ii) The House Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as House Cochair of the Administrative Rule Review Subcommittee.

(3) The cochaairs and co-vice chairs of the Legislative Council shall be ex officio members of the Administrative Rule Review Subcommittee.

(4)(A) The Administrative Rule Review Subcommittee may meet only during a regular, fiscal, or extraordinary session of the General Assembly.

(B) The Administrative Rule Review Subcommittee shall meet at the call of the cochaairs of the Administrative Rule Review Subcommittee.

(5)(A) During a regular, fiscal, or extraordinary session of the General Assembly:

(i) The Administrative Rule Review Subcommittee shall perform the functions assigned to the Administrative Rules Subcommittee of the Legislative Council under this section; and

(ii) The Joint Budget Committee shall perform the functions assigned to the Legislative Council under this section.

(B) Actions taken by the Administrative Rule Review Subcommittee and the Joint Budget Committee under this subsection have the same effect as actions taken by the Administrative Rules Subcommittee of the Legislative Council and the Legislative Council under this section.

(C) The Joint Budget Committee shall file a report of its actions under this subsection with the Legislative Council as soon as practicable.

(f)(1) A committee or subcommittee under this section may vote to not approve a rule under this section only if the rule is inconsistent with:

(A) State or federal law; or

(B) Legislative intent.

(2) A committee or subcommittee under this section voting not to approve a rule under this section shall state the grounds under subdivision (f)(1) of this section when not approving a rule.

(3) A committee or subcommittee under this section considering a rule submitted in accordance with § 20-7-604(d)(2)(D), concerning exemptions from the Prescription Drug Monitoring Program, is not required to state the grounds required under subdivision (f)(1) of this section when not approving a rule.

(4) A committee or subcommittee under this section considering a rule containing a fee or penalty submitted in accordance with § 25-15-105 is not required to state the grounds under subdivision (f)(1) of this section when not approving a rule containing a fee or penalty and may choose not to approve a rule containing a fee or penalty submitted under § 25-15-105 for any reason.

(g)(1) The Administrative Rules Subcommittee of the Legislative Council, the Legislative Council, the Administrative Rule Review Subcommittee, or the Joint Budget Committee may refer a rule to a committee of the General Assembly for the committee's consideration.

(2) After the referred rule is presented to a committee of the General Assembly and considered, the committee to whom the rule was referred may provide its views and opinions on the rule to the committee or subcommittee that referred the rule.

(3) The Administrative Rules Subcommittee of the Legislative Council, the Legislative Council, the Administrative Rule Review Subcommittee, or the Joint Budget Committee shall not delegate their authority to review or approve a rule under this section to a committee or subcommittee of the General Assembly or the Legislative Council.

(h)(1) The Legislative Council shall adopt rules to implement this section, including without limitation rules concerning:



(A) The process for determining when a rule will be placed on the agendas of the Administrative Rules Subcommittee of the Legislative Council and the Legislative Council; and

(B) The materials a state agency shall provide with the rule to aid committees and subcommittees under this section in their review and approval of the rule.

(2) The Legislative Council may adopt rules amending the definition of “state agency” under subdivision (b)(2)(B) of this section to provide:

(A) That the definition of “state agency” includes an agency of state government, including without limitation an agency of state government under subdivision (b)(2)(B) of this section; and

(B) That the definition of “state agency” under this section does not include an agency of state government.

(i) The review and approval of a rule under this section shall not be construed to:

(1) Represent an expression by the General Assembly that the rule is consistent with:

(A) State or federal law; or

(B) Legislative intent; and

(2) Have any effect in a judicial proceeding relating to the rule, including without limitation a judicial review of the rule under § 25-15-212 or other applicable provision of law.

**History.** Acts 1973, No. 583, §§ 1, 2, 4-6; 1979, No. 136, § 1; A.S.A. 1947, §§ 6-608, 6-608n, 6-610 — 6-612; Acts 1987, No. 85, § 1; 1995, No. 884, §§ 4, 5; 1995, No. 1104, § 2; 1997, No. 1354, § 15; 2001, No. 983, § 1; 2006 (1st Ex. Sess.), No. 38, § 2; 2011, No. 273, § 1; 2013, No. 759, § 2; 2015, No. 1258, § 13; 2016 (3rd Ex. Sess.), No. 1, § 2; 2017, No. 605, § 1; 2017, No. 707, § 12; 2017, No. 820, §§ 6, 7; 2019, No. 315, §§ 736-742; 2019, No. 319, § 3; 2021, No. 1101, § 1.

**A.C.R.C. Notes.** Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General As-

sembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: “This act shall be known and may be cited as the ‘Arkansas Highway Improvement Plan of 2016’.”

Acts 2019 No. 319, § 1, provided: “Title. This act shall be known and may be cited as the ‘Red Tape Reduction Collective Rulemaking Act of 2019’.”

Acts 2019, No. 319, § 2, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

“(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational licensure and occupational licensing entities; and

“(ii) Existing occupational licensure and occupational licensing entities.

“(b) It is the intent of the General Assembly to establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation.”

**Amendments.** The 2016 (3rd Ex. Sess.) amendment substituted “that include” for “including” in the introductory language of (b)(2)(B); and added “Except as provided in §§ 10-3-3102 and 27-65-107(a)(18)(A)” to the beginning of (b)(2)(B)(ii).

The 2017 amendment by No. 605 added (b)(1)(B)(iv).

The 2017 amendment by No. 707 substituted “Department of Transportation” for “State Highway and Transportation Department” in (b)(2)(B)(ii).

The 2017 amendment by No. 820 redesignated former (c)(3)(B)(i) and (c)(3)(B)(ii) as (c)(3)(B)(i)(a) and (c)(3)(B)(i)(b); added “Except as set forth in subdivision (c)(3)(B)(ii) of this section” in (c)(3)(B)(i)(a); added (c)(3)(B)(ii); redesignated former (c)(4)(A) and (c)(4)(B) as (c)(4)(A)(i) and (c)(4)(A)(ii); added “Except as set forth in subdivision (c)(4)(B) of this section” in (c)(4)(A)(i); added (c)(4)(B); and added (f)(3).

The 2019 amendment by No. 315 substituted “Administrative Rules Subcommittee” for “Administrative Rules and Regulations Subcommittee” throughout the section; and substituted “Administrative Rule Review Subcommittee” for “Administrative Rule and Regulation Review Subcommittee” throughout the section.

The 2019 amendment by No. 319 added (c)(5).

The 2021 amendment added (f)(4).

**Cross References.** Rulemaking power to be narrowly interpreted, § 25-15-220.

### **10-3-310. Compensation of executive secretary and employees — Cooperation with Council of State Governments — Reimbursement.**

(a)(1) The Executive Secretary to the Legislative Council shall be entitled to such salary as may be authorized by appropriation of the General Assembly.

(2) All other employees of the Legislative Council shall receive such remuneration as may be provided by the annual appropriations.

(b) The Legislative Council is authorized to cooperate with the Council of State Governments and with national and regional organi-



zations established to study governmental problems and may authorize one (1) or more of its members to attend the meetings thereof which the Legislative Council deems appropriate. Any member of the Legislative Council attending the meetings shall be reimbursed only for actual and reasonable expenses for transportation, meals, lodging, and other necessary expenses.

**History.** Acts 1949, No. 264, § 8; 1963, 929, § 1; A.S.A. 1947, § 4-624; Acts 2015, No. 253, § 1; 1969, No. 139, § 1; 1975, No. 1150, § 2.

### **10-3-313. Meetings — Agenda — Procedures and practices.**

(a)(1) The Review Subcommittee of the Legislative Council, the Administrative Rules Subcommittee of the Legislative Council, and the Performance Evaluation and Expenditure Review Subcommittee of the Legislative Council shall each meet monthly on a date approximately two (2) weeks preceding the date on which regular meetings of the interim committees are held.

(2) At the meetings, the respective subcommittees shall screen the various matters required by law to be submitted to the Legislative Council by the state agencies and which have heretofore been referred to the respective subcommittees by the Legislative Council and shall determine which of such matters need further review and which are routine and need no further review or both.

(3) Those matters which the respective subcommittees determine need further review shall be referred to the respective subject matter interim committee, which committee referral shall be made by the subcommittee after taking into consideration the committee which is usually assigned such matters by the respective houses as well as the workload of the various interim committees, it being the intent to allow as much meaningful participation by the members in as many committees as possible.

(b)(1)(A) At the next regular meeting of an interim committee, all matters referred to the committee by the Legislative Council or appropriate subcommittee of the Legislative Council shall be placed on the agenda for review by the committee.

(B) When any member of the General Assembly submits any proposal or issue to the Legislative Council for legislative study or review or input, the Legislative Council shall refer the matter as follows:

(i) If the proposal states a preference on referral, the proposal shall be referred to the committee of preference unless the proposal is clearly not germane to that committee as determined by the Legislative Council;

(ii) If the proposal was initiated by the Legislative Council or by a member of the Legislative Council, the Legislative Council may appoint a subcommittee to conduct such study; and

(iii) All other proposals shall be assigned to the appropriate interim committee.

(2) Notice that such item is being placed on the meeting agenda of the interim committee may be furnished to the various state agencies involved upon direction of the cochair of the interim committee in order that the agency may be represented at the interim committee meeting to explain the item and to answer questions in regard thereto if raised by the committee.

(3) Upon conclusion of the committee's consideration of an item, the committee or designated subcommittee thereof shall notify the state agency that it has completed its review of the item.

(4) The purpose of this subsection is to enable appropriate interim committees of the General Assembly and the various state agencies to jointly discuss the various matters referred to the respective committees in order to enable the committees to perform a legislative oversight function of keeping the General Assembly informed with respect to activities of the various agencies and to enable state agencies to receive the benefit of recommendations and comments of the respective interim committees concerning various actions or proposed actions of the agencies.

(5) The respective interim committees of the General Assembly are hereby authorized to adopt appropriate procedures and practices, including the utilization of subcommittees, to enable each committee to carry out its responsibilities under the provisions of this section.

**History.** Acts 1991, No. 1055, §§ 13-15, 19; 1997, No. 1354, § 16; 2019, No. 315, § 743.

substituted "Administrative Rules Subcommittee" for "Administrative Rules and Regulations Subcommittee" in (a)(1).

**Amendments.** The 2019 amendment

### **10-3-314. [Repealed.]**

**Publisher's Notes.** This section, concerning report on claim filed with Arkansas State Claims Commission, was repealed by Acts 2013, No. 1161, § 1. The section was derived from Acts 1995, No.

607, § 27; 1995, No. 993, § 9; 1995 (1st Ex. Sess.), No. 16, § 20; 1997, No. 264, § 1; 2009, No. 605, § 13; 2009, No. 606, § 13; 2011, No. 777, § 1.

### **10-3-317. Disclosure of school district information and records — Access to electronic databases of Division of Elementary and Secondary Education.**

(a)(1) The Division of Elementary and Secondary Education shall provide the Bureau of Legislative Research with direct read-and-report-only access to the division's data warehouse concerning school districts and related records.

(2) In providing the bureau with the direct read-and-report-only access required under subdivision (a)(1) of this section, the division shall take reasonable precautions, including electronic blocking or redacting, to prevent the disclosure of:

(A) Personally identifiable information of a student unless the parent or guardian of a minor student or a student who is no longer



a minor consents in writing to the disclosure of personally identifiable information about that student; or

(B) Information that would cause the division to lose funding under the provisions of 20 U.S.C. § 1232g, as it existed on January 1, 2007.

(3)(A) The division shall make its staff reasonably accessible for consultation with bureau staff in developing and responding appropriately to bureau requests under this section.

(B) The bureau staff shall inform the division of any warehouse data used in the preparation of reports and provide the division at least one (1) working day to review any student-related warehouse data used in preparation of reports prior to publicly releasing that student-related data without individually identifiable information.

(b) The division shall provide other information and records requested by the bureau as soon as possible and in whatever reasonable form requested.

**History.** Acts 2007, No. 624, § 1; 2019, No. 910, § 2209.

**Amendments.** The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in the section heading and (a)(1); substituted "division" for "department" throughout the section; and made a stylistic change.

### **10-3-318. Review of occupational authorizations and occupational entities — Findings and intent — Definitions.**

(a) The General Assembly finds and determines that it is in the best interest of this state to conduct a periodic comprehensive review of all occupational authorizations and the occupational entities that issue them.

(b) It is the intent of the General Assembly to determine and implement the least restrictive form of occupational authorization to protect consumers from significant and substantiated harms to public health and safety.

(c) As used in this section:

(1) "Occupational authorization" means a license, government-required certificate, registration, permit, or other form of authorization required by law or rule that is required for an individual to engage in a particular occupation or profession; and

(2) "Occupational entity" means an office, board, commission, department, council, bureau, or other agency of state government having authority to establish or issue an occupational authorization.

(d)(1) The Legislative Council shall:

(A)(i) Review each occupational authorization and each occupational entity on an annual rotating basis to determine if the existing occupational authorization or occupational entity, or both, is consistent with the intent described in subsection (b) of this section.

(ii)(a) The occupational authorizations and the occupational entities shall be divided into six (6) groups to be determined by the Legislative Council.

(b) The Legislative Council shall review one (1) group each year.

(iii) However, an occupational authorization or occupational entity may be reviewed out of the rotating basis if a member of the General Assembly makes a formal request to the Legislative Council and the cochair of the Legislative Council approve the request.

(iv) After all groups have been reviewed one (1) time, the Legislative Council shall continue to review the groups as described in this section;

(B)(i) Analyze whether consumers are sufficiently protected by competition, public knowledge of the reputations of occupational practitioners, private ratings and reviews, private certification, voluntary bonding, and voluntary insurance.

(ii) If the Legislative Council finds substantiated evidence showing that the competition and private actions described in subdivision (d)(1)(B)(i) of this section provide for insufficient protection from significant harm, the Legislative Council shall use the following guidelines in the Legislative Council's review:

(a) The effects of the existing occupational authorization and any proposed occupational reform on opportunities for workers, consumer choices, consumer costs, general unemployment, market competition, government costs, and any other effects deemed relevant;

(b) Whether the occupational authorization and any proposed occupational reform employ the least restrictive form of occupational authorization to protect consumers from significant and substantiated harm to public health and safety;

(c) If and to what degree existing occupational regulation and any proposed occupational reform delegate administrative rules promulgation to an occupational entity concerning the establishment of the following:

(1) The scope of practice for the occupation or profession; or

(2) The qualifications for the occupational authorization; and

(d) Whether a significant and substantiated exposure to antitrust litigation under any existing occupational regulation and under any proposed occupational reform exists; and

(C)(i) Make recommendations to the Speaker of the House of Representatives and the President Pro Tempore of the Senate regarding:

(a) The repeal of an occupational authorization;

(b) The conversion of an occupational authorization to a less restrictive occupational authorization;

(c) The promulgation of revised rules reflecting the use of a less restrictive occupational authorization consistent with subsection (e) of this section;

(d) The modification of qualifications for an occupational authorization;

(e) The modification or redefinition of the scope of practice of an occupation or profession; or

(f) Any other relevant legislative reforms deemed necessary.



(ii) However, the Legislative Council is not required to recommend any legislative reform for any particular occupational authorization or occupational entity.

(2) The Legislative Council may:

(A) Establish or utilize one (1) or more subcommittees to assist in its duties under this section;

(B) Assign information filed with the Legislative Council under this section to one (1) or more subcommittees of the Legislative Council, including without limitation a subcommittee created under subdivision (d)(2)(A) of this section; and

(C) Delegate its duties under this section to one (1) or more subcommittees of the Legislative Council, subject to final review and approval of the Legislative Council.

(3) If the Legislative Council determines that it is necessary, the Legislative Council may contract with consultants to assist in the duties assigned under this section or request the staff of Arkansas Legislative Audit to assist in the duties assigned under this section.

(e)(1) The Legislative Council shall analyze whether consumers can be sufficiently protected by competition, the reputations of occupational practitioners, private ratings and reviews, private certification, voluntary bonding, and voluntary insurance.

(2) If the Legislative Council finds substantiated evidence of significant harm arising from:

(A)(i) Contractual disputes, including pricing disputes, the Legislative Council may recommend enacting legislation allowing lawsuits in small claims court or district court to remedy a specific consumer harm.

(ii) A cause of action described in subdivision (e)(2)(A)(i) of this section may provide for reimbursement of attorney's fees or court costs if a consumer claim is successful;

(B) Fraud, the Legislative Council may recommend legislation strengthening powers under the deceptive trade practices laws or requiring disclosures to reduce misleading attributes of the specific good or service;

(C) General health and safety, the Legislative Council may recommend legislation enacting a law or rule that regulates the related process or requires a business license;

(D) Unclean facilities, the Legislative Council may recommend legislation requiring periodic facility inspections;

(E) Failure of an occupational licensee to complete a contract fully or comply with standards, the Legislative Council may recommend legislation requiring the occupational licensee to be bonded;

(F) Lack of protection for a person who is not a party to a contract between an occupational licensee and a consumer, the Legislative Council may recommend legislation requiring the occupational licensee to have insurance;

(G) Transactions with transient, out-of-state, or fly-by-night occupational licensees, the Legislative Council may recommend legisla-

tion requiring the occupational licensee to register the business with the Secretary of State;

(H) Shortfalls or lack of knowledge about the good or service among consumers relative to the occupational practitioner's knowledge, the Legislative Council may recommend legislation enacting government-required certification or other occupational authorization;

(I) Systematic information shortfall in which a reasonable consumer of a service is permanently unable to distinguish between the quality of occupational licensees and an absence of guidance to the consumers, the Legislative Council may recommend legislation enacting or maintaining an occupational authorization; or

(J) Multiple areas listed in subdivisions (e)(2)(A)-(I) of this section, the Legislative Council may recommend legislation with a combination of occupational authorization, including regulation with a private remedy, third-party or consumer-created ratings and reviews, or private certification.

(f) Under a timeline as determined by the Legislative Council, an occupational entity shall:

(1)(A) File a report with the Governor and the Legislative Council.

(B) The report shall include:

(i) The name of the occupation, the type of regulation, and the scope of practice for each occupation that the occupational entity regulates;

(ii) The amount of any fee or penalty associated with each occupation;

(iii) The number of individuals regulated by the occupational entity, grouped by occupational authorization;

(iv) A statement describing in what respects, if any, each occupational authorization is required by state or federal law; and

(v) Any other relevant information as determined by the Legislative Council;

(2) Appear at a public hearing before the Legislative Council to discuss the report prepared by the occupational entity; and

(3) Provide any assistance requested to the Legislative Council regarding the review of each occupational authorization.

(g) This section does not apply to occupational authorizations or occupational entities that are not subject to the oversight or purview of the General Assembly through the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 2019, No. 600, § 3.

**A.C.R.C. Notes.** Acts 2019, No. 600, § 1, provided: "Title. This act shall be known and may be cited as the 'Red Tape Reduction Sunrise and Sunset Act of 2019'."

Acts 2019, No. 600, § 2, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

"(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership



with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

“(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry; and

“(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

“(A) Establish an expedited procedure for occupational entities to collectively submit administrative rules that are responsive to new legislation;

“(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

“(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

“(D) Authorize occupational entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

“(E) Establish a systematic process for review of:

“(i) New occupational authorization and occupational entities; and

“(ii) Existing occupational authorization and occupational entities.

“(b) It is the intent of the General Assembly to establish a systematic process for review of:

(1) New occupational authorization and occupational entities; and

“(2) Existing occupational authorization and occupational entities.”

### 10-3-319. Medical Marijuana Advisory Subcommittee.

(a) The Legislative Council shall establish by rule the Medical Marijuana Advisory Subcommittee, which shall provide advice on all matters related to the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98.

(b) All matters pertaining to the following may be referred to the Medical Marijuana Advisory Subcommittee:

(1) Licensing and operation of dispensaries and cultivation facilities;

(2) Registration and certification of cultivation facility agents and dispensary agents;

(3) Licensure of transporters, distributors, and processors;

(4) Registration and certification of transporter agents, distributor agents, and processor agents;

(5) Qualifying medical conditions for the medical use of marijuana;

(6) The taxation and distribution of medical marijuana proceeds;

(7) Rules promulgated by one (1) or more of the following state agencies regarding the implementation, administration, or enforcement of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98:

(A) The Alcoholic Beverage Control Division;

(B) The Department of Health;

(C) The Medical Marijuana Commission; and

(D) Any other state agency involved with the implementation, administration, or enforcement of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98;

(8) Proposed contracts of one (1) or more of the following state agencies in the amount of twenty-five thousand dollars (\$25,000) or more that relate to the implementation, administration, or enforcement of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98:

- (A) The Alcoholic Beverage Control Division;
- (B) The Department of Health;
- (C) The Medical Marijuana Commission; and
- (D) Any other state agency involved with the implementation, administration, or enforcement of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98; and
- (9) Such other matters related to medical marijuana as the Medical Marijuana Advisory Subcommittee considers necessary to provide its advice on all matters related to the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98.

(c)(1) Except as provided in subdivision (c)(2) of this section, if a matter referred to the Medical Marijuana Advisory Subcommittee under subsection (b) of this section would otherwise require review or approval, or both, by a subcommittee of the Legislative Council, the Medical Marijuana Advisory Subcommittee shall serve as the subcommittee of the Legislative Council that performs the required review or approval, or both, of the matter.

(2) Proposed rules submitted to the Medical Marijuana Advisory Subcommittee under this section are not subject to approval by the Medical Marijuana Advisory Subcommittee but are submitted for review purposes only.

(d)(1) During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the Medical Marijuana Advisory Subcommittee.

(2) The Joint Budget Committee may establish a subcommittee to perform the functions of the Medical Marijuana Advisory Subcommittee that are assigned to the Joint Budget Committee under subdivision (d)(1) of this section.

**History.** Acts 2021, No. 632, § 1.

## SUBCHAPTER 4 — LEGISLATIVE JOINT AUDITING COMMITTEE

### SECTION.

10-3-408. Rules.

10-3-409. Compensation of Legislative Auditor and employees — Cooperation with Council of State Governments — Reimbursement.

### SECTION.

10-3-411. Investigation and audit of state or local entities — Subpoenas — Contempt.

## 10-3-408. Rules.

The Legislative Joint Auditing Committee may establish any rules as it may deem fit which are not inconsistent with law.

**History.** Acts 1955, No. 105, § 6; A.S.A. 1947, § 4-706; Acts 2019, No. 315, § 744.

**Amendments.** The 2019 amendment

deleted “and regulations” following “Rules” in the section heading and following “rules” in the text.



**10-3-409. Compensation of Legislative Auditor and employees  
— Cooperation with Council of State Governments  
— Reimbursement.**

(a)(1) The Legislative Auditor shall be entitled to such salary as may be authorized by appropriation of the General Assembly.

(2) All other employees of the Legislative Joint Auditing Committee shall receive such remuneration as may be provided by the annual appropriations.

(b) The Legislative Joint Auditing Committee is authorized to cooperate with the Council of State Governments and with national and regional organizations established to study governmental problems and may authorize one (1) or more of its members to attend the meetings thereof which the Legislative Joint Auditing Committee deems appropriate. Any member of the Legislative Joint Auditing Committee attending the meetings shall be reimbursed only for actual and reasonable expenses for transportation, meals, lodging, and other necessary expenses.

**History.** Acts 1955, No. 105, § 7; 1963, 929, § 2; A.S.A. 1947, § 4-707; Acts 2015, No. 499, § 1; 1969, No. 139, § 2; 1975, No. 1150, § 3.

**10-3-411. Investigation and audit of state or local entities —  
Subpoenas — Contempt.**

(a)(1) The Legislative Joint Auditing Committee has the authority to conduct investigations or audits pertaining to the affairs of any entity of the state or political subdivision of the state whenever the Legislative Joint Auditing Committee determines that investigations are necessary to make a proper determination with respect to the operations of the entity of the state or political subdivision of the state or any agency or instrumentality of them, or of the collection, handling, administration, or expenditure of any public funds or assets allocated, received, managed, directed, handled, or disbursed by or on behalf of the entity.

(2)(A) In addition, the Legislative Joint Auditing Committee has the authority to investigate documents, books, and records regarding receipt, expenditure, or disbursement of other funds if the Legislative Joint Auditing Committee or its executive committee determines that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(B)(i) Nothing in this section shall be construed as authorizing or permitting the release of information prohibited by law or not subject to public inspection under the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law.

(ii)(a) All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation, or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure.

(b) Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(3)(A) In connection with investigations or audits, the Legislative Joint Auditing Committee has the authority to examine any or all books, records, or any other data or systems relative to the investigation or audit, confidential or otherwise, irrespective of the custodian or location of the records.

(B) However, in the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the Legislative Joint Auditing Committee or its executive committee must approve the Legislative Auditor's determination that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(b)(1) Any member of the General Assembly, by written request filed with the Legislative Joint Auditing Committee at least six (6) days prior to any regular or special meeting of the Legislative Joint Auditing Committee, may request an investigation or audit of any entity for which the Legislative Joint Auditing Committee and Arkansas Legislative Audit has the authority to audit.

(2) Upon the vote of the majority of the membership of the Legislative Joint Auditing Committee approving the request, the Legislative Auditor shall conduct the investigation or audit.

(c) In connection with any investigations or audits, the Legislative Joint Auditing Committee has the right and power to subpoena witnesses and to issue subpoenas duces tecum.

(d) All subpoenas shall be issued by either cochair of the Legislative Joint Auditing Committee, or by either co-vice chair acting in the absence of either cochair, after the issuance of the subpoenas has been approved by a majority vote of the membership of the Legislative Joint Auditing Committee at a duly called meeting with all members of the Legislative Joint Auditing Committee having received no fewer than six (6) days' advance notice of the meeting.

(e)(1) The reasons for, and purposes of, the proposed subpoena or subpoenas, including the names of the persons or the nature and identification of all books, records, and documents for which subpoenas are being considered, shall be furnished in writing to the members of the Legislative Joint Auditing Committee in the notice mailed to the members not less than six (6) days in advance of the meeting at which the question of issuing the subpoenas is to be considered.

(2) No subpoenas shall be issued under the provisions of this section until such time as any individual or the individual holding the books, records, or documents sought by the Legislative Joint Auditing Committee has received a formal written invitation to appear before the Legislative Joint Auditing Committee by certified registered mail at least thirty (30) days prior to a regular or special meeting of the Legislative Joint Auditing Committee and that individual has failed or



refused to appear before the Legislative Joint Auditing Committee at the meeting.

(f) The cochair and the co-vice chairs of the Legislative Joint Auditing Committee are authorized to administer oaths.

(g)(1)(A) Subpoenas issued by the Legislative Joint Auditing Committee shall be served by the sheriff of the county in which the person, books, records, or documents subpoenaed are located.

(B) The sheriff shall be entitled to the same fees for the service of process as provided by law for service of process issued by the circuit court.

(2) The Legislative Joint Auditing Committee at its option may direct the Division of Arkansas State Police to serve any subpoena.

(h) Witnesses subpoenaed to appear before the Legislative Joint Auditing Committee shall be entitled to witness fees and travel allowances at the same rate as provided by law for witnesses subpoenaed to appear in civil actions in circuit court.

(i) The fees for the serving of subpoenas and all witness fees and travel allowances shall be paid from funds appropriated for the maintenance and operation of the Legislative Joint Auditing Committee.

(j)(1) If any person subpoenaed to appear before the Legislative Joint Auditing Committee shall fail to appear or to produce books, documents, or records subpoenaed by the Legislative Joint Auditing Committee, the fact shall be certified to the circuit court of the county in which the hearing is held.

(2) The court shall punish the person for contempt of the General Assembly in the same manner as punishment for contempt is imposed for failure to respond to a subpoena or directive of the court.

(k)(1)(A) It is the intent of this section to authorize the Legislative Joint Auditing Committee to:

- (i) Issue subpoenas;
- (ii) Compel the attendance of witnesses;
- (iii) Administer oaths when necessary; and
- (iv) Make full investigations or determinations whenever the Legislative Joint Auditing Committee determines:

(a) They are necessary with respect to the affairs of any entity of the state or political subdivision of the state; and

(b) Investigations are necessary to discharge its duties.

(B) It is not the intent of this section to repeal, reduce, or diminish the authority vested by law in the Legislative Auditor to issue subpoenas whenever the Legislative Auditor determines that they are necessary to assist the Legislative Auditor or the staff of the Legislative Auditor in making a complete audit.

(2) This section shall be cumulative to Acts 1955, No. 105, and all laws amendatory to that act.

**History.** Acts 1973, No. 662, §§ 1, 2; No. 466, §§ 5, 6; 2005, No. 2201, § 5; A.S.A. 1947, §§ 4-709, 4-709n; Acts 2001, 2015, No. 554, § 3.

## SUBCHAPTER 6 — JOINT COMMITTEE ON LEGISLATIVE PRINTING REQUIREMENTS AND SPECIFICATIONS

### SECTION.

10-3-601. Intent.

10-3-604. Duties.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

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### 10-3-601. Intent.

It is the intent of this subchapter to establish procedures whereby the types of contracts to be let for legislative printing or duplicating requirements may be determined after study and review of the printing or duplicating needs of the General Assembly. Adequate specifications and safeguards may be established for such contracts in order that the State Procurement Director might be advised thereof in the letting of contracts for legislative printing or duplicating requirements.

**History.** Acts 1967, No. 508, § 4; 1975, No. 544, § 14; A.S.A. 1947, § 4-904; Acts 2019, No. 910, § 6061.

deleted "of the Office of State Procurement of the Department of Finance and Administration" following "State Procurement Director" in the second sentence.

**Amendments.** The 2019 amendment

### 10-3-604. Duties.

It shall be the duty of the Joint Committee on Legislative Printing Requirements and Specifications to:

(1) Study and review all purchases by the General Assembly of printing and duplicating services and stationery;

(2) Designate those items which should be purchased under commercial term contracts awarded by the State Procurement Director, those items which should be purchased under one-time commercial contracts awarded by the director, and those items of printing or duplicating that can be best accomplished by facilities operated by the General Assembly or its staff or by another state agency and paid for on a cost basis through an intergovernmental transfer of funds;



(3) Promulgate standards, specifications, and rules governing the size, composition, and printing or duplicating processes that shall be used in furnishing printing or duplicating services for the General Assembly and certify the specifications and requirements to the director, who shall incorporate the specifications and requirements in contracts to be let for legislative printing needs;

(4) Establish requirements for the furnishing of bonds for performance under legislative printing or duplicating contracts, establish penalty provisions for failure to perform under the terms of the contracts, and establish procedures for the evaluation of performance under those contracts for the purpose of determining when the penalty provisions shall be invoked, and the amount thereof, in case of breach of contract or failures to fulfill contracts within the terms thereof;

(5) Make any additional rules or specifications and advise the director for incorporation in legislative printing or duplicating contracts as the Joint Committee on Legislative Printing Requirements and Specifications determines necessary in order that the efficiency of the General Assembly might be expedited.

**History.** Acts 1967, No. 508, § 3; 1975, No. 544, § 14; A.S.A. 1947, § 4-903; Acts 2019, No. 315, §§ 745, 746.

substituted “rules” for “regulations” in (3); and deleted “regulations” following “rules” in (5).

**Amendments.** The 2019 amendment

## SUBCHAPTER 9 — JOINT PERFORMANCE REVIEW COMMITTEE

### SECTION.

10-3-902. Duties.

10-3-903. [Repealed.]

### 10-3-902. Duties.

The Joint Performance Review Committee shall have the authority and responsibility to:

(1) Make random and periodic performance review of specific governmental programs and agencies;

(2) Conduct investigations into such specific problem areas of the administration of state government as may be brought to the attention of the Joint Performance Review Committee;

(3) Refer specific problems regarding the operation of state government to appropriate interim committees of the General Assembly for continuing study;

(4) Conduct hearings on citizen complaints and views regarding the operation of state government and serve as a forum for citizens to air their complaints and suggestions regarding the operation of state government;

(5) Review the expenditures of the various agencies, departments, and programs of state government to assure that they are being administered in accordance with legislative intent and are being

administered in such manner as to provide the taxpayers with the greatest service at the lowest reasonable cost;

(6) Make such reports and recommendations to the Governor, the General Assembly, and the Legislative Council as the Joint Performance Review Committee deems necessary or appropriate to promote more effective and efficient operation of state government; and

(7)(A) Investigate allegations of violations of election law referred by the Attorney General's office.

(B) The Joint Performance Review Committee may:

(i) Administer oaths for the purpose of taking sworn statements from witnesses in the course of its investigations;

(ii) Request a person who is the subject of a complaint to answer allegations in writing, produce relevant evidence, or appear in person before the Joint Performance Review Committee;

(iii) Subpoena any person or books, records, or other documents relevant to the investigation or inquiry; and

(iv) Hold public hearings on the allegation of a violation of election law.

(C) The Joint Performance Review Committee may:

(i) Inform a person in writing that an allegation of a violation of election law has been made against him or her;

(ii) Provide notice in writing to the person who is the subject of an alleged violation of election law if a hearing will be held on the alleged violation of election law, including the specific date and time of the hearing;

(iii) Hold a hearing or schedule multiple hearings to investigate an allegation of a violation of election law;

(iv) Provide a person subpoenaed with reasonable notice of the subpoena and an opportunity to respond;

(v) Advise the person who is the subject of the alleged violation of election law in writing of the final recommendations of the Joint Performance Review Committee; and

(vi) Prepare a report of the findings and recommendations of the Joint Performance Review Committee and submit that report to the State Board of Election Commissioners.

**History.** Acts 1977, No. 392, § 2; A.S.A. 1947, § 4-1014; Acts 1997, No. 1354, § 21; 2021, No. 974, § 6.

**Amendments.** The 2021 amendment added (7).

### 10-3-903. [Repealed.]

**Publisher's Notes.** This section, concerning employment of personnel, was repealed by Acts 2013, No. 1465, § 2. The

section was derived from Acts 1977, No. 392, § 4; A.S.A. 1947, § 4-1016.



## SUBCHAPTER 10 — COMMITTEES ON EDUCATION

### SECTION.

10-3-1002. [Repealed.]

10-3-1003. Routine collaboration with Division of Elementary and Secondary Education, Division of Career and Technical Education, and Division of Higher Education.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 10-3-1002. [Repealed.]

**A.C.R.C. Notes.** The repeal of this section by Acts 2019, No. 337, supersedes the amendment of this section by Acts 2019, No. 315. Acts 2019, No. 315, amended subsection (c) to read as follows: “(c) The Legislative Council, the House Committee on Education, and the Senate Committee on Education are authorized to promulgate standard and uniform forms and rules to be followed by the various area

vocational-technical schools in compiling and furnishing information required in this section.”

**Publisher’s Notes.** This section, concerning annual evaluation of vocational-technical courses, was repealed by Acts 2019, No. 337, § 1, effective July 24, 2019. The section was derived from Acts 1981, No. 769, § 8; A.S.A. 1947, § 80-1661; Acts 2019, No. 315, § 747.

### 10-3-1003. Routine collaboration with Division of Elementary and Secondary Education, Division of Career and Technical Education, and Division of Higher Education.

(a) The House Committee on Education and the Senate Committee on Education between legislative sessions shall continually and routinely:

- (1) Assess the needs and problems of:
  - (A) The public school districts of this state;
  - (B) Technical institutes and vocational-technical schools; and
  - (C) Institutions of higher education; and
- (2) Engage in a constant dialogue with the:
  - (A) Division of Elementary and Secondary Education;

(B) Division of Career and Technical Education; and

(C) Division of Higher Education.

(b) In order to assist the General Assembly, the Division of Elementary and Secondary Education, the Division of Career and Technical Education, and the Division of Higher Education shall not only respond to the inquiries of the House Committee on Education and the Senate Committee on Education, but shall of their own motion alert the membership of the House Committee on Education and the Senate Committee on Education to problems and needs of, and recommendations concerning, all public education endeavors in Arkansas.

**History.** Acts 1997, No. 748, § 1; 1999, No. 1323, § 47; 2019, No. 910, § 2210.

**Amendments.** The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education”, “Division of Career and Tech-

nical Education” for “Department of Career Education”, and “Division of Higher Education” for “Department of Higher Education” in the section heading and throughout the section.

## SUBCHAPTER 11 — JOINT INTERIM COMMITTEE ON LEGISLATIVE FACILITIES

### SECTION.

10-3-1104. Powers and duties.

10-3-1106. Additional legislative space.

### SECTION.

10-3-1109. Contracts.

10-3-1110. [Repealed.]

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 10-3-1104. Powers and duties.

(a) The Joint Interim Committee on Legislative Facilities shall review the existing usage of the space presently used by the General Assembly in the State Capitol Building and shall make such reallocations thereof or improvements thereto as in the judgment of the Joint Interim Committee on Legislative Facilities are necessary to serve the needs of the Senate and the House of Representatives, their respective standing committees, and the several interim committees of the General Assembly and legislative staff services.

(b) The Joint Interim Committee on Legislative Facilities may undertake any or all of the improvements contemplated in this subchapter



after conferring with the Legislative Council, the agencies affected, and the Governor, giving due consideration to the needs and convenience of the several state agencies presently housed in the State Capitol Building in space to be converted to legislative use, and especially after considering the plans for providing space for the agencies in a state office building, and may undertake improvements as a single project or in a series of projects as the Joint Interim Committee on Legislative Facilities may determine to be in the best interest of the General Assembly.

(c) [Repealed.]

**History.** Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1997, No. 1354, § 23; 2013, No. 1465, § 3.

### **10-3-1106. Additional legislative space.**

In addition to the space now provided in the State Capitol Building for the General Assembly and its committees, the following additional space in the State Capitol Building is designated as legislative space if the Joint Interim Committee on Legislative Facilities determines that it is needed for legislative committee space or for other legislative facilities:

(1) The office space on the north wing of the first floor of the State Capitol Building currently used by the Office of State Procurement, the Division of Correction, the Department of Parks, Heritage, and Tourism, and the Department of Commerce;

(2) The office space on the west side of the first floor of the State Capitol Building presently used by the Arkansas Public Employees' Retirement System, which shall be made available to Arkansas Legislative Audit, or such other legislative uses as may be determined by the Joint Interim Committee on Legislative Facilities;

(3) The office space on the southeast wing of the first floor of the State Capitol Building presently assigned to the Accounting Division of the Department of Finance and Administration, and any other portion of the space assigned to the Department of Finance and Administration the Joint Interim Committee on Legislative Facilities determines is needed for legislative use;

(4) The office space on the southeast wing of the second floor of the State Capitol Building currently assigned for use by the Budget Division of the Department of Finance and Administration. The space now provided for the Arkansas Economic Development Commission on the southwest wing of the second floor of the State Capitol Building shall be made available for the Budget Division of the Department of Finance and Administration unless the director determines that the location of the Budget Division in some other facilities would be more advantageous to the agency;

(5) The former Supreme Court Chamber on the south end of the second floor of the State Capitol Building, to be air conditioned and

serve as a large Senate committee room, but preserving the present decor of the chamber, i.e., changes contemplated involve only such things as air conditioning, carpeting, repainting, improved lighting, and installation of sound and recording equipment, and necessary committee tables and chairs, and other minor changes, essentially preserving the room in its present state; and

(6) The space presently assigned Arkansas Legislative Audit on the west portion of the fourth floor of the State Capitol Building shall be available for the Bureau of Legislative Research of the Legislative Council, Budget and Fiscal Review Section, or such other uses as determined by the Joint Interim Committee on Legislative Facilities.

**History.** Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1997, No. 540, § 13; 2015, No. 554, § 4; 2019, No. 910, § 5550.

**Amendments.** The 2019 amendment, in (1), substituted "Office of State Procurement" for "Division of Purchasing" and "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism".

### 10-3-1109. Contracts.

(a)(1) Construction work to be performed shall be under contract, to be awarded by the Joint Interim Committee on Legislative Facilities to the lowest responsible bidder, but the total cost of the project, including cost of publishing legal notices, payment of architect fees, payments to contractors, and all other expenses of whatever nature incident to and reasonably necessary in connection with the project shall not exceed the appropriation provided for it.

(2) All expenditures of funds shall be in strict compliance with the applicable provisions of the fiscal laws of this state pertaining to the expenditure of public funds and the state purchasing laws of this state.

(3) [Repealed.]

(b) All actions by the Joint Interim Committee on Legislative Facilities in relation to the work to be performed under contracts shall be in strict compliance with the applicable provisions of §§ 22-9-202 — 22-9-204.

(c) All payments to contractors under contracts let under the provisions of this subchapter shall be made only after the approval of the amounts thereof by the architect.

(d) All contracts which the Joint Interim Committee on Legislative Facilities proposes to enter into shall be subject to the approval as to form only by the Attorney General.

**History.** Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1987, No. 968, § 2; 2021, No. 471, § 2.

**Amendments.** The 2021 amendment repealed (a)(3).



**10-3-1110. [Repealed.]**

**Publisher's Notes.** This section, concerning disbursing agent, was repealed by Acts 2013, No. 1465, § 4. The section was

derived from Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141.

**SUBCHAPTER 13 — SENATE INTERIM COMMITTEE ON CHILDREN AND YOUTH**

**A.C.R.C. Notes.** Acts 2021, No. 574, § 1, provided: "Study of best practices for reducing the number of children in foster care — Creation — Purpose.

"(a) The House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall meet jointly to conduct a study of the best practices for reducing the number of children in foster care.

"(b)(1) The purpose of the study is to study the best practices for reducing the number of children in foster care in the state.

"(2) The study shall include without limitation:

"(A) An assessment of the number of children in foster care;

"(B) An examination of the state's current practices and policies aimed at reducing the number of children in foster care and the efficacy of those practices and policies;

"(C) An examination of the methods other states use to reduce the number of children in foster care and the efficacy of those methods; and

"(D) The formulation of a plan for the state to implement the best practices to reduce or eliminate the number of children in foster care, including without limitation increased funding, education, advertisement, and support.

"(c) Within sixty (60) days of the effective date of this act [July 28, 2021], the Department of Human Services shall submit to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth a report of:

"(1) The number of children in foster care in the state; and

"(2) The practices and policies the state is currently using to reduce the number of children in foster care in the state.

"(d) Joint meetings for purposes of conducting the study shall be held at least one (1) time every two (2) months but may occur more often at the call of the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Interim Committee on Children and Youth.

"(e) On or before December 1, 2022, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth shall submit to the Legislative Council a final written report of their activities, findings, and recommendations with regard to the study under this act, including without limitation:

"(1) Findings on the adequacy of the state's practices and policies aimed at reducing the number of children in foster care; and

"(2) Recommended draft legislation to address the findings of the study.

"(f) If the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth determine that it is necessary, the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth may contract with one (1) or more outside consultants to assist with study required under this section.

"(g) The study under this act shall be complete upon submission of the final report to the Legislative Council."

**SUBCHAPTER 14 — OFFICE OF ECONOMIC AND TAX POLICY****SECTION.**

10-3-1402. Office of Economic and Tax Policy — Creation.

10-3-1404. Forecast of general revenues.

**SECTION.**

10-3-1405. Interdepartmental cooperation and assistance.

**Effective Dates.** Acts 2017, No. 823, § 2: July 1, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act concerns the forecast of general revenues, which is essential to finance the operations of state government; and that a delay in the effective date of this act beyond the start of the next fiscal year on July 1, 2017, could work irreparable harm to the proper administration and provision of essential government programs. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this

act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 10-3-1402. Office of Economic and Tax Policy — Creation.

(a) There is hereby created within the Bureau of Legislative Research the "Office of Economic and Tax Policy".

(b) The office shall be staffed by such personnel as may be authorized by annual appropriations of the General Assembly.

**History.** Acts 1993, No. 1274, § 1; 2015, No. 1150, § 4.

### 10-3-1404. Forecast of general revenues.

(a)(1) On or before the third Wednesday in May before the beginning of each fiscal year, the Chief Fiscal Officer of the State shall submit to the Joint Committee on Economic and Tax Policy the following forecasts of general revenues to be available under the Revenue Stabilization Law, § 19-5-101 et seq.:

(A) The official forecast for the upcoming fiscal year, including any revisions necessitated by the revised forecast required under subdivision (a)(1)(B) of this section; and

(B) A revised forecast for the current fiscal year.

(2)(A) The Joint Committee on Economic and Tax Policy may hold meetings and hearings and request such information, data, or studies as it deems necessary.

(B) Upon hearing evidence and information regarding the outlook for state revenues, the Joint Committee on Economic and Tax Policy shall make its findings on the forecasts of general revenues available for distribution.

(3) A report of the Joint Committee on Economic and Tax Policy's findings shall be sent to the Chief Fiscal Officer of the State.



(b) If the Chief Fiscal Officer of the State determines it has become necessary to change either forecast of general revenues available for distribution, the Chief Fiscal Officer of the State shall report the expected change in forecast to the Office of Economic and Tax Policy and the Joint Committee on Economic and Tax Policy with an explanation of the need for the change.

**History.** Acts 1993, No. 1274, § 3; substituted “third Wednesday” for “first Wednesday” in (a)(1).  
2013, No. 1224, § 1; 2017, No. 823, § 1.

**Amendments.** The 2017 amendment

### **10-3-1405. Interdepartmental cooperation and assistance.**

(a) The Department of Finance and Administration shall cooperate with and assist the Office of Economic and Tax Policy in carrying out its responsibilities by providing:

(1) The office with such nonconfidential tax information as may be requested by the office; and

(2) Such other assistance to the office as may be requested.

(b)(1) Other state agencies shall cooperate with and assist the office in carrying out its duties, including, without limitation:

(A) Review and analysis of cost-benefit studies;

(B) Fiscal impact statements; and

(C) Other fiscal analyses as requested by the office.

(2) State agencies shall provide assistance to the office as requested.

(c) The state-supported institutions of higher education shall:

(1) Cooperate with and assist the office in carrying out its duties; and

(2) Provide support and advice to the Joint Committee on Economic and Tax Policy in determining the economic policy and revenue forecast of the State of Arkansas.

(d)(1) The Division of Elementary and Secondary Education shall cooperate with and assist the office in carrying out its responsibilities by providing:

(A) The office with information requested by the office; and

(B) Assistance to the office as requested.

(2) The division shall provide the office with any information regarding changes in the calculation of state aid to public school districts within seven (7) working days of a change.

(e) The Arkansas Economic Development Commission and the Arkansas Development Finance Authority shall cooperate with and assist the office in carrying out its responsibilities by providing:

(1) The office with information requested by the office; and

(2) Assistance to the office as requested.

**History.** Acts 1993, No. 1274, § 5; 2003 substituted “Division of Elementary and  
(2nd Ex. Sess.), No. 17, § 2; 2005, No. Secondary Education” for “Department of  
1981, § 3; 2019, No. 910, § 2211. Education” in the introductory language

**Amendments.** The 2019 amendment of (d)(1) and in (d)(2).

## SUBCHAPTER 15 — DESEGREGATION LITIGATION — LEGISLATIVE OVERSIGHT

## [Expired.]

## SECTION.

10-3-1501. [Expired.]

10-3-1502. [Expired.]

10-3-1503. [Expired.]

## SECTION.

10-3-1504. [Expired.]

10-3-1505. [Repealed.]

10-3-1506. [Repealed.]

## 10-3-1501. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the establishment of the Desegregation Litigation Oversight Subcommittee, expired by its own terms September 30, 2017. The section was derived from Acts 1989 (3rd Ex. Sess.), No. 71, § 1; 2016 (3rd Ex. Sess.), No. 2, § 6; 2016 (3rd Ex. Sess.), No. 3, § 6.

## 10-3-1502. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the membership of the Desegregation Litigation Oversight Subcommittee, expired by its own terms September 30, 2017. The section was derived from Acts 1989, (3rd Ex. Sess.), No. 71, § 2; 1997, No. 112, § 26; 1997, No. 250, § 56; 1997, No. 1354, § 26; 1999, No. 1508, § 7; 2016 (3rd Ex. Sess.), No. 2, § 7; 2016 (3rd Ex. Sess.), No. 3, § 7.

## 10-3-1503. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the reduction of future litigation liability, expired by its own terms September 30, 2017. The section was derived from Acts 1989 (3rd Ex. Sess.), No. 71, § 4; 2016 (3rd Ex. Sess.), No. 2, § 8; 2016 (3rd Ex. Sess.), No. 3, § 8.

## 10-3-1504. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning reports and settlements, expired by its own terms September 30, 2017. The section was derived from Acts 1989 (3rd Ex. Sess.), No. 71, § 3; 1997, No. 112, § 27; 2016 (3rd Ex. Sess.), No. 2, § 9; 2016 (3rd Ex. Sess.), No. 3, § 9.



**10-3-1505. [Repealed.]**

**Publisher's Notes.** This section, concerning comprehensive study, was repealed by Acts 2013, No. 1465, § 5. The

section was derived from Acts 2005, No. 1940, § 1.

**10-3-1506. [Repealed.]**

**Publisher's Notes.** This section, concerning the establishment, members, and duties of the Arkansas Public School Desegregation Lawsuit Resolution Task

Force, was repealed by identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 10. The section was derived from Acts 2005, No. 2286, § 1.

**SUBCHAPTER 16 — JOINT INTERIM OVERSIGHT COMMITTEE ON EDUCATION REFORM**

SECTION.

10-3-1602. Duties.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**10-3-1602. Duties.**

The duties of the Joint Interim Oversight Committee on Education Reform shall include, but are not limited to, the following:

(1) Reviewing policy issues regarding the creation and implementation of acceptability systems for the state system of education, including the review of any regulatory changes proposed by the appropriate agencies of the executive branch or any boards or commissions prior to their implementation;

(2) Reviewing policy issues affecting educational reform on or before November 15 of the year preceding a regular session and making recommendations concerning any necessary legislative changes proposed by school districts, cooperatives, institutions of higher education, the Division of Elementary and Secondary Education, the State Board of Education, the Division of Career and Technical Education, the Career Education and Workforce Development Board, the Division of

Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions;

(3) Providing recommendations regarding use of state and federal funds;

(4) Reviewing and assuring coordination between the school districts, cooperatives, institutions of higher education, the Division of Elementary and Secondary Education, the State Board of Education, the Division of Career and Technical Education, the Career Education and Workforce Development Board, the Division of Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions; and

(5) Evaluating innovative education projects and promoting the adoption of successful projects.

**History.** Acts 1991, No. 978, § 2; 1999, No. 1163, § 2; 2009, No. 962, § 24; 2019, No. 910, §§ 2212, 2213.

**Amendments.** The 2019 amendment in (2) and (4), substituted "Division of Elementary and Secondary Education" for "Department of Education", "Division of

Career and Technical Education" for "Department of Career Education", "Career Education and Workforce Development Board" for "State Board of Career Education", and "Division of Higher Education" for "Department of Higher Education".

## SUBCHAPTER 17 — JOINT COMMITTEE ON ADVANCED COMMUNICATIONS AND INFORMATION TECHNOLOGY

### SECTION.

10-3-1704. Joint Committee on Advanced Communications and Information Technology — Members — Duties.

### SECTION.

10-3-1705. Duties of joint standing committee.

10-3-1707. Interim committee meetings — Expenses — Staff.

**Effective Dates.** Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 153: July 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Building Authority, the Arkansas Science and Technology Authority, the Department of Rural Services, and the Division of Land Surveys of the Arkansas Agriculture Department are inefficiently structured; that this inefficient structuring causes an excessive and unnecessary cost to the taxpayers of the this state; and that this act is essential to alleviating that financial burden. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is

found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,



and safety shall become effective on July 1, 2019.”

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### **10-3-1704. Joint Committee on Advanced Communications and Information Technology — Members — Duties.**

(a) The members of the House of Representatives and the Senate appointed at each regular session of the General Assembly to the Joint Committee on Advanced Communications and Information Technology shall constitute a joint committee of the General Assembly to function during and in the interim between the sine die adjournment or extended recess of the regular session or fiscal session of each General Assembly, until the convening of the next regular session or fiscal session of the General Assembly or reconvening of the current General Assembly, or during an extended recess.

(b)(1)(A) The Joint Committee on Advanced Communications and Information Technology shall make continuing studies concerning the development of access to a statewide public telecommunications network for distance learning, telemedicine, universal access for governmental entities, and other issues concerning advanced communications and information technology, either initiated by the Joint Committee on Advanced Communications and Information Technology or referred to it by either house of the General Assembly for study, in the interim between sessions of the General Assembly.

(B)(i) Interim study proposals and resolutions filed with the Legislative Council under the provisions of § 10-3-214 for review and referral to the appropriate germane interim committee of the General Assembly, relating to advanced communications and information technology, shall be referred to the Joint Committee on Advanced Communications and Information Technology.

(ii) The Joint Committee on Advanced Communications and Information Technology shall undertake each study referred to it by members of the General Assembly or by the Legislative Council and shall submit a report of its findings and recommendations in regard to each study request to the General Assembly prior to the convening of the next session of the General Assembly.

(iii) The Joint Committee on Advanced Communications and Information Technology shall review any plan developed or updated by a public instrumentality.

(2) In addition, the Joint Committee on Advanced Communications and Information Technology shall exercise leadership in the interim between legislative sessions and shall attempt to coordinate for the various committees of the General Assembly the various activities, studies, and planning activities of the General Assembly which relate to the development of access to a statewide public telecommunications information infrastructure.

(3) The Joint Committee on Advanced Communications and Information Technology shall have the power and authority, upon approval

of a majority of the members of the Joint Committee on Advanced Communications and Information Technology, to subpoena persons, documents, and records. However, no action of the Joint Committee on Advanced Communications and Information Technology regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the Joint Committee on Advanced Communications and Information Technology or upon a two-thirds ( $\frac{2}{3}$ ) vote of the membership of the Joint Committee on Advanced Communications and Information Technology.

(4) The Joint Committee on Advanced Communications and Information Technology shall cooperate with the Governor, with public secondary and postsecondary institutions of education, with the appropriate administrative agencies of this state, with legislative and administrative agencies and institutions of other states, and with the federal government and others in the planning and development of access to a statewide public telecommunications infrastructure linking institutions, businesses, government agencies, schools, hospitals, libraries, communities, and other public and private entities to the national information infrastructure.

(c) The Joint Committee on Advanced Communications and Information Technology shall exercise appropriate legislative oversight of the operations of the Division of Information Systems.

**History.** Acts 1995, No. 737, § 5; 1997, No. 914, § 22; 1997, No. 1354, § 28; 2007, No. 751, § 5; 2009, No. 248, § 3; 2009, No. 962, § 25; 2019, No. 910, § 6062.

**Amendments.** The 2019 amendment substituted "Division of Information Systems" for "Department of Information Systems" in (c).

### 10-3-1705. Duties of joint standing committee.

Bills pertaining to the Division of Information Systems, advanced communications and information technology, telemedicine, distance learning, or public information access shall be referred to the Joint Committee on Advanced Communications and Information Technology or the Committee on Advanced Communications and Information Technology, as appropriate.

**History.** Acts 1995, No. 737, § 4; 1997, No. 914, § 23; 2001, No. 3, § 2; 2019, No. 910, § 6063.

substituted "Division of Information Systems" for "Department of Information Systems".

**Amendments.** The 2019 amendment

### 10-3-1707. Interim committee meetings — Expenses — Staff.

(a) The per diem and mileage, including reimbursement for expenses for attending out-of-state meetings as provided by law, shall be paid from funds appropriated for per diem, mileage, and expenses of members of the General Assembly for attending interim committee meetings or from other funds provided by law for that purpose.



(b) The Bureau of Legislative Research shall furnish such staff assistance as may be requested by the Joint Committee on Advanced Communications and Information Technology.

(c) All other appropriate state agencies, including, but not limited to, the Division of Information Systems, the Arkansas Economic Development Commission, and public colleges and universities in the State of Arkansas, shall be available to assist the Joint Committee on Advanced Communications and Information Technology on advanced communications and information technology matters as may be requested by the Joint Committee on Advanced Communications and Information Technology.

**History.** Acts 1995, No. 737, § 7; 1997, No. 914, § 24; 1997, No. 1354, § 29; 2015 (1st Ex. Sess.), No. 7, § 74; 2015 (1st Ex. Sess.), No. 8, § 74; 2019, No. 910, § 6064.

**A.C.R.C. Notes.** Acts 2015 (1st Ex. Sess.), No. 7, § 62 and 2015 (1st Ex. Sess.), No. 8, § 62, provided: "Transfer of the Arkansas Science and Technology Authority.

"(a)(1) The Arkansas Science and Technology Authority is transferred to the Arkansas Economic Development Commission by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the commission is the principal department under Acts 1971, No. 38.

"(b) The statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or

purchasing, of the authority are transferred to the commission, except as specified in this act.

"(c) The prescribed powers, duties, and functions, including rulemaking, regulation, and licensing; promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudication of the authority are transferred to the executive director of the commission, except as specified in this act.

"(d) The members of the Board of Directors of the Arkansas Science and Technology Authority, and their successors, shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the board except as specified in this act."

**Amendments.** The 2019 amendment substituted "Division of Information Systems" for "Department of Information Systems" in (c).

## SUBCHAPTER 19 — ARKANSAS STATE GAME AND FISH COMMISSION OVERSIGHT COMMITTEE

[Expired.]

### SECTION.

10-3-1901. [Expired.]

10-3-1902. [Expired.]

10-3-1901. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

### SECTION.

10-3-1903. [Expired.]

**Publisher's Notes.** This section, concerning the creation of the Arkansas State Game and Fish Commission Oversight Committee, expired by its own terms December 31, 2016. The section was derived from Acts 2001, No. 1389, § 1; 2016 (3rd Ex. Sess.), No. 2, § 11; 2016 (3rd Ex. Sess.), No. 3, § 11.

**10-3-1902. [Expired.]**

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the membership of the Arkansas State Game and Fish Commission Oversight Committee, expired by its own terms December 31, 2016. The section was derived from Acts 2001, No. 1389, § 1; 2016 (3rd Ex. Sess.), No. 2, § 12; 2016 (3rd Ex. Sess.), No. 3, § 12.

**10-3-1903. [Expired.]**

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the duties of the Arkansas State Game and Fish Commission Oversight Committee, expired by its own terms December 31, 2016. The section was derived from Acts 2001, No. 1389, § 1; 2016 (3rd Ex. Sess.), No. 2, § 13; 2016 (3rd Ex. Sess.), No. 3, § 13.

**SUBCHAPTER 21 — CONTINUING ADEQUACY EVALUATION ACT OF 2004**

## SECTION.

10-3-2102. Duties.

10-3-2103. Investigations.

## SECTION.

10-3-2104. Report.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**10-3-2102. Duties.**

(a) During each interim, the House Committee on Education and the Senate Committee on Education shall meet separately or jointly, as needed, to:

(1) Assess, evaluate, and monitor the entire spectrum of public education across the State of Arkansas to determine whether equal educational opportunity for an adequate education is being substantially afforded to the school children of the State of Arkansas and recommend any necessary changes;



(2) Review and continue to evaluate what constitutes an adequate education in the State of Arkansas and recommend any necessary changes;

(3) Review and continue to evaluate the method of providing equality of educational opportunity of the State of Arkansas and recommend any necessary changes;

(4) Evaluate the effectiveness of any program implemented by a school, a school district, an education service cooperative, the Division of Elementary and Secondary Education, or the State Board of Education and recommend necessary changes;

(5) Review the average teacher salary in the State of Arkansas in comparison to average teacher salaries in surrounding states and member states of the Southern Regional Education Board and make recommendations for any necessary changes to teacher salaries in the State of Arkansas established by law;

(6) Review and continue to evaluate the costs of an adequate education for all students in the State of Arkansas, taking into account cost-of-living variances, diseconomies of scale, transportation variability, demographics, school districts with a disproportionate number of students who are economically disadvantaged or have educational disabilities, and other factors as deemed relevant, and recommend any necessary changes;

(7) Review and continue to evaluate the amount of per-student expenditure necessary to provide an equal educational opportunity and the amount of state funds to be provided to school districts, based upon the cost of an adequate education and monitor the expenditures and distribution of state funds and recommend any necessary changes; and

(8) Review and monitor the amount of funding provided by the State of Arkansas for an education system based on need and the amount necessary to provide an adequate educational system, not on the amount of funding available, and make recommendations for funding for each biennium.

(b) As a guidepost in conducting deliberations and reviews, the committees shall use the opinion of the Supreme Court in the matter of *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), and other legal precedent.

(c) The Division of Elementary and Secondary Education, the Division of Career and Technical Education, and the Division of Higher Education shall provide the House Committee on Education and the Senate Committee on Education with assistance and information as requested by the House Committee on Education and the Senate Committee on Education.

(d) The Attorney General is requested to provide assistance to the House Committee on Education and the Senate Committee on Education as needed.

(e) Contingent upon the availability of funding, the House Committee on Education, the Senate Committee on Education, or both, may enter into an agreement with outside consultants or other experts as

may be necessary to conduct the adequacy review as required under this section.

(f) The study for subdivisions (a)(1)-(4) of this section shall be accomplished by:

(1) Reviewing a report prepared by Arkansas Legislative Audit compiling all funding received by public schools for each program;

(2) Reviewing the Arkansas academic standards developed by the Division of Elementary and Secondary Education;

(3) Reviewing the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.;

(4) Reviewing fiscal and facilities distress programs;

(5) Reviewing the state's standing under the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95; and

(6) [Repealed.]

(7) Reviewing the specific programs identified for further study by the House Committee on Education and the Senate Committee on Education.

(g)(1) The study for subdivision (a)(5) of this section shall be accomplished by comparing the average teacher salary in Arkansas with surrounding states and Southern Regional Education Board member states, including without limitation:

(A) Comparing teacher salaries as adjusted by a cost of living index or a comparative wage index;

(B) Reviewing the minimum teacher compensation salary schedule; and

(C) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

(2) Depending on the availability of National Education Association data on teacher salaries in other states, the teacher salary comparison may be prepared as a supplement to the report after September 1.

(h) The study for subdivision (a)(6) of this section shall be accomplished by reviewing:

(1) Expenditures from:

(A) Isolated school funding;

(B) National school lunch student funding;

(C) Declining enrollment funding;

(D) Student growth funding; and

(E) Special education funding;

(2) Disparities in teacher salaries; and

(3) Any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

(i) The study for subdivision (a)(7) of this section shall be accomplished by:

(1) Completing an expenditure analysis and resource allocation review each biennium; and



(2) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

(j) The study for subdivision (a)(8) of this section shall be accomplished by:

(1) Using evidence-based research as the basis for recalibrating as necessary the state's system of funding public education;

(2) Adjusting for the inflation or deflation of any appropriate component of the system of funding public education every two (2) years;

(3) Reviewing legislation enacted or rules promulgated during the biennium covered by the study to determine the impact of the legislation and rules on educational adequacy-related public school costs; and

(4) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

**History.** Acts 2003 (2nd Ex. Sess.), No. 57, § 1; 2005, No. 723, § 1; 2007, No. 1204, § 1; 2011, No. 725, § 1; 2015, No. 554, § 5; 2017, No. 936, § 55; 2019, No. 757, § 66; 2019, No. 910, §§ 2214-2216.

**Amendments.** The 2017 amendment substituted "Arkansas academic standards" for "curriculum frameworks" in (f)(2); substituted "Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq." for "Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq" in (f)(3); deleted "academic" following "fiscal" in (f)(4); and substituted "Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95"

for "No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq." in (f)(5).

The 2019 amendment by No. 757 repealed (f)(6).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" throughout the section; and substituted "Division of Career and Technical Education" for "Department of Career Education" and "Division of Higher Education" for "Department of Higher Education" in (c).

**U.S. Code.** The Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95, is codified as 20 U.S.C. § 6301 et seq.

## RESEARCH REFERENCES

**Ark. L. Rev.** Joshua E. Weishart, Rethinking Constitutionality in Education Rights Cases, 72 Ark. L. Rev. 495 (2019).

## CASE NOTES

### Res Judicata.

Because adequacy reports and evaluations were filed after the release of the mandate in a previous school-funding

case, res judicata did not bar a school district's challenge to them. *Deer/Mt. Judea Sch. Dist. v. Kimbrell*, 2013 Ark. 393, 430 S.W.3d 29 (2013).

## 10-3-2103. Investigations.

(a) The House Committee on Education and the Senate Committee on Education shall have the authority to conduct investigations pertaining to the effectiveness of any and all education programs of:

- (1) Any school;
- (2) Any school district;
- (3) Any service cooperative;
- (4) Any institution;
- (5) The Division of Elementary and Secondary Education or its successors; or
- (6) The State Board of Education or any division under the board's authority.

(b)(1) In connection with any investigation, the House Committee on Education and the Senate Committee on Education shall have the right and the power to subpoena witnesses and to issue subpoena duces tecum, pursuant to § 10-2-307.

(2) The chairs and the cochairs of the House Committee on Education and the Senate Committee on Education are authorized to administer oaths.

**History.** Acts 2003 (2nd Ex. Sess.), No. 57, § 1; 2013, No. 1465, § 6; 2019, No. 910, § 2217.

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(5); and substituted "division" for "department" in (a)(6).

**Amendments.** The 2019 amendment

### 10-3-2104. Report.

(a) The House Committee on Education and the Senate Committee on Education shall file separately or jointly, or both, reports of their findings and recommendations with the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than November 1 of each year before the convening of a regular session.

(b) For each recommendation the report shall include proposed implementation schedules with timelines, specific steps, agencies and persons responsible, resources needed, and drafts of bills proposing all necessary and recommended legislative changes.

(c) The report shall be supplemented as needed to accomplish the purposes of this continuing evaluation.

(d)(1) Before a fiscal session, the House Committee on Education and the Senate Committee on Education shall meet, jointly or separately as needed, to review the funding recommendations contained in the most recent report filed under this section.

(2) The House Committee on Education and the Senate Committee on Education, meeting jointly or separately as needed, also shall review any other matters identified by the House Committee on Education or the Senate Committee on Education that may affect the state's obligation to provide a substantially equal opportunity for an adequate education for all public school students.

(3) If the House Committee on Education and the Senate Committee on Education find that the recommendations in the most recent adequacy evaluation report filed under this section should be amended, the House Committee on Education and the Senate Committee on Education, jointly or separately, or both, shall advise in writing the President Pro Tempore of the Senate and the Speaker of the House of



Representatives of their findings and amendments to the adequacy evaluation report:

(A) By November 1 of the calendar year before the beginning of a fiscal session that is held in a year in which the preferential primary election is held in May under § 7-7-203; and

(B) By March 1 of the calendar year before the beginning of a fiscal session that is held in a year in which the preferential primary election is held in March under § 7-7-203.

(e) The House Committee on Education or the Senate Committee on Education, separately or jointly, shall publish a draft of the report required under this section or any amendment or supplement to the report not less than fourteen (14) days before the report, amendment, or supplement is submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

**History.** Acts 2003 (2nd Ex. Sess.), No. 57, § 1; 2007, No. 1204, § 2; 2009, No. 199, § 1; 2011, No. 725, § 2; 2019, No. 545, § 7.

**A.C.R.C. Notes.** The 2015 (1st Ex. Sess.) amendment to this section expired December 31, 2016. Acts 2015 (1st Ex. Sess.), No. 5, § 5, provided:

“(a) This act is cumulative of existing laws and shall not repeal but merely suspend any law in conflict with the act.

“(b) The provisions of this act are tem-

porary and expire on December 31, 2016.

“(c) On and after December 31, 2016, the provisions of law suspended by this act shall be in full force and effect.

“(d) The expiration of this act shall not affect rights acquired under it or affect suits then pending.”

**Amendments.** The 2019 amendment deleted “By November 1 of the calendar year before the beginning of a fiscal session” at the beginning of (d)(3); and added (d)(3)(A) and (d)(3)(B).

## SUBCHAPTER 22 — ACADEMIC FACILITIES OVERSIGHT COMMITTEE

### SECTION.

10-3-2202. Powers and duties.

10-3-2203. Committee assistance.

**Effective Dates.** Acts 2017, No. 801, § 7: Apr. 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Division of Public School Academic Facilities and Transportation needs an advisory committee with the necessary expertise in order to effectively carry out its mission; that clarity is needed in the law as to which entity has appointment authority over new members of the Advisory Committee on Public School Academic Facilities; that the State of Arkansas is in need of a comprehensive review of academic facilities programs to ensure that the most efficient and effective programs are in place; and that this act is immediately necessary in order to

constitute an advisory committee to immediately begin the work required in this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this

act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and "Transformation and

Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### **10-3-2202. Powers and duties.**

(a) The Academic Facilities Oversight Committee shall:

(1) Oversee development and implementation of state statutory requirements with regard to providing constitutionally appropriate public school academic facilities and related equipment for all public schools in the State of Arkansas as necessary to provide an equal opportunity for an adequate education for all public school students in Arkansas;

(2) [Repealed.]

(3) Review and recommend policies and criteria for the repair, maintenance, renovation, remodeling, replacement, and construction of public school academic facilities;

(4) Oversee local and state expenditures related to providing constitutionally appropriate public school academic facilities and related equipment;

(5) Review the effectiveness of methods used to fund the cost of constitutionally appropriate public school academic facilities and equipment;

(6) Review the ongoing assessment, evaluation, and inspection of public school academic facilities to provide that constitutionally appropriate public school academic facilities are, and will continue to be, provided for public school students in Arkansas; and

(7) Use the opinions of the Supreme Court in the matter of Lake View School District No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002) and other legal precedent relevant to public school academic facilities.

(b)(1)(A) The Academic Facilities Oversight Committee shall report its findings and recommendations to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, and the Senate Committee on Education no later than October 1 before each regular session of the General Assembly.

(B) Upon motion of the Academic Facilities Oversight Committee and approval by a quorum of the committee, the October 1 report deadline may be extended for a period to be determined by the Academic Facilities Oversight Committee.



(2) The report shall include for each recommendation, proposed implementation schedules with timelines, specific steps, agencies and persons responsible, and resources needed.

(3) When feasible, the Academic Facilities Oversight Committee shall propose plans, measures, and initiatives as recommendations for legislation or rules.

**History.** Acts 2005, No. 1424, § 1; 2017, No. 801, § 4; 2019, No. 315, § 748. The 2019 amendment substituted “rules” for “regulations” in (b)(3).

**Amendments.** The 2017 amendment repealed (a)(2).

### 10-3-2203. Committee assistance.

(a) The Division of Elementary and Secondary Education, the Division of Career and Technical Education, the Division of Higher Education, the Division of Public School Academic Facilities and Transportation, and the Division of Public School Accountability shall provide the Academic Facilities Oversight Committee with assistance as requested by the Academic Facilities Oversight Committee.

(b) The Academic Facilities Oversight Committee may hire or contract with individuals or entities, both within the state and from out of state, for the purpose of obtaining staff or otherwise performing the duties of the Academic Facilities Oversight Committee to the extent funding is appropriated and available for that purpose.

(c) The Bureau of Legislative Research shall furnish reasonable staff assistance to the Academic Facilities Oversight Committee as may be requested by the Academic Facilities Oversight Committee.

**History.** Acts 2005, No. 1424, § 1; 2019, No. 910, § 2218.

**Amendments.** The 2019 amendment, in (a), substituted “Division of Elementary and Secondary Education” for “Depart-

ment of Education”, “Division of Career and Technical Education” for “Department of Career Education”, and “Division of Higher Education” for “Department of Higher Education”.

## SUBCHAPTER 23 — ARKANSAS LEGISLATIVE TASK FORCE ON ABUSED AND NEGLECTED CHILDREN ACT

[Expired.]

### SECTION.

10-3-2301. [Expired.]

10-3-2302. [Expired.]

### SECTION.

10-3-2303. [Expired.]

### 10-3-2301. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: “Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission af-

ter their respective expiration date.”

**Publisher’s Notes.** This section, concerning the title of the subchapter, expired by its own terms June 30, 2017. The section was derived from Acts 2005, No. 2000, § 1; 2016 (3rd Ex. Sess.), No. 2, § 14; 2016 (3rd Ex. Sess.), No. 3, § 14.

**10-3-2302. [Expired.]**

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the creation of the Arkansas Leg-

islative Task Force on Abused and Neglected Children, expired by its own terms June 30, 2017. The section was derived from Acts 2005, No. 2000, § 1; 2007, No. 1035, § 1; 2009, No. 494, § 1; 2011, No. 1149, §§ 1-3; 2013, No. 149, §§ 1, 2; 2013, No. 980, § 5; 2015, No. 296, § 1; 2016 (3rd Ex. Sess.), No. 2, § 15; 2016 (3rd Ex. Sess.), No. 3, § 15.

**10-3-2303. [Expired.]**

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

**Publisher's Notes.** This section, concerning the duties of the Arkansas Legislative Task Force on Abused and Neglected Children, expired by its own terms June 30, 2017. The section was derived from Acts 2005, No. 2000, § 1; 2016 (3rd Ex. Sess.), No. 2, § 16; 2016 (3rd Ex. Sess.), No. 3, § 16.

**SUBCHAPTER 25 — ARKANSAS CYBERINFRASTRUCTURE TASK FORCE ACT****[Repealed.]**

## SECTION.

10-3-2501 — 10-3-2508. [Repealed.]

**10-3-2501 — 10-3-2508. [Repealed.]**

**Publisher's Notes.** This subchapter, concerning the Arkansas Cyberinfrastructure Task Force Act, was repealed by identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, §§ 17-24. The subchapter was derived from the following sources:

10-3-2501. Acts 2009, No. 978, § 1.

10-3-2502. Acts 2009, No. 978, § 1.

10-3-2503. Acts 2009, No. 978, § 1.

10-3-2504. Acts 2009, No. 978, § 1; 2015 (1st Ex. Sess.), No. 7, § 75; 2015 (1st Ex. Sess.), No. 8, § 75.

10-3-2505. Acts 2009, No. 978, § 1.

10-3-2506. Acts 2009, No. 978, § 1.

10-3-2507. Acts 2009, No. 978, § 1.

10-3-2508. Acts 2009, No. 978, § 1.

**SUBCHAPTER 26 — ARKANSAS LEGISLATIVE TASK FORCE ON AUTISM ACT**

## SECTION.

10-3-2602. Arkansas Legislative Task Force on Autism — Creation.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Ar-

kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and



operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the

fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### **10-3-2602. Arkansas Legislative Task Force on Autism — Creation.**

- (a) The Arkansas Legislative Task Force on Autism is created.
- (b) The task force shall consist of the following members:
  - (1) One (1) member of the House of Representatives, appointed by the Speaker of the House of Representatives;
  - (2) One (1) member of the Senate, appointed by the President Pro Tempore of the Senate;
  - (3) One (1) member who is an employee of the Division of Medical Services of the Department of Human Services, appointed by the Secretary of the Department of Human Services;
  - (4) One (1) member who is a board-certified behavior analyst, appointed by the Arkansas Psychology Board;
  - (5) One (1) member to represent Easterseals, appointed by Easterseals Arkansas;
  - (6) The Director of the Division of Developmental Disabilities Services of the Department of Human Services;
  - (7) The Behavior Intervention Coordinator of the Division of Elementary and Secondary Education;
  - (8) One (1) member to represent Arkansas Blue Cross and Blue Shield;
  - (9) One (1) member who is a pediatric physician who regularly works with autistic patients, appointed by the Dennis Developmental Center of the Department of Pediatrics of the University of Arkansas for Medical Sciences;
  - (10) One (1) member who is a clinical geneticist, appointed by the University of Arkansas for Medical Sciences;
  - (11) One (1) member to represent Partners for Inclusive Communities of the University Centers for Excellence in Developmental Disabilities Education, Research, and Service of the University of Arkansas for Medical Sciences;
  - (12) The Behavior Intervention Services Coordinator for the Division of Elementary and Secondary Education;
  - (13) The Associate Director of Special Education of the Division of Elementary and Secondary Education;
  - (14) One (1) public school Special Education Supervisor, appointed by the Arkansas Association of Special Education Administrators;
  - (15) One (1) member to represent the Arkansas Children's Research Institute, appointed by Arkansas Children's Hospital;

(16) Four (4) members who are parents or guardians of children with autism, appointed by the Speaker of the House of Representatives; and

(17) Four (4) members who are parents or guardians of children with autism, appointed by the President Pro Tempore of the Senate.

(c)(1) The Speaker of the House of Representatives shall call the first of the task force meetings within thirty (30) days of July 31, 2009.

(2) At the first meeting, the members of the task force shall elect from the membership a chair and other officers as needed for the transaction of its business.

(3)(A) The task force shall conduct its meetings in Pulaski County at the State Capitol.

(B) Meetings shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair.

(d)(1) If a vacancy occurs among the legislative members of the task force, the vacancy shall be filled by the same process as the original appointment.

(2) If a vacancy occurs among the nonlegislative members of the task force, the vacancy shall be filled by vote of the task force.

(e) The task force shall establish rules and procedures for conducting its business.

(f) A majority of the members of the task force shall constitute a quorum for transacting any business of the task force.

(g) The Bureau of Legislative Research shall provide staff for the task force.

**History.** Acts 2009, No. 1272, § 1; 2019, No. 910, §§ 2219-2221.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Human Services" for "Director of the

Department of Human Services" in (b)(3); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(7), (b)(12), and (b)(13).

## SUBCHAPTER 27 — ARKANSAS HEALTH INSURANCE MARKETPLACE LEGISLATIVE OVERSIGHT COMMITTEE

SECTION.

10-3-2701. [Repealed.]

**Effective Dates.** Acts 2013, No. 1500, § 5: Apr. 23, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the federal healthcare laws established by Pub. L. No. 111-148, as amended by Pub. L. No. 111-152, allow each state to establish a health insurance marketplace or opt to participate in a health insurance marketplace operated by the United States Department of Health and Human Services; that the state has elected to create a state-based marketplace effective

on July 1, 2015; and that this act should become effective at the earliest opportunity to begin the process of planning for the implementation of a state-based marketplace and transitioning to a state-based marketplace. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period



of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

### 10-3-2701. [Repealed.]

**Publisher’s Notes.** This section, concerning the Arkansas Health Insurance Marketplace Legislative Oversight Committee, was repealed by identical Acts

2017 (1st Ex. Sess.), Nos. 4 and 5, § 4. The section was derived from Acts 2013, No. 1500, § 2.

## SUBCHAPTER 28 — LEGISLATIVE TASK FORCES CONCERNING CRIMINAL JUSTICE

### SECTION.

10-3-2801. [Expired.]

10-3-2802. [Repealed.]

**Effective Dates.** Acts 2015, No. 895, § 49: Apr. 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that prison overcrowding is one of the largest problems currently burdening the state both from a public safety and budgetary standpoint; that safe and effective measures are needed to immediately combat this problem; and that this act is immediately necessary because in the interests of public safety and the state budget the Department of Correction, Department of Community Correction, Department of Human Services, and the Parole Board should be allowed to immediately implement these new measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 10-3-2801. [Expired.]

**A.C.R.C. Notes.** Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: “Sections of the Arkansas Code amended by this act that expire on or

before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date.”

**Publisher's Notes.** This section, concerning the Legislative Criminal Justice Oversight Task Force, expired by its own terms September 30, 2017. The section

was derived from Acts 2015, No. 895, § 4; 2016 (3rd Ex. Sess.), No. 2, § 25; 2016 (3rd Ex. Sess.), No. 3, § 25.

### 10-3-2802. [Repealed.]

**Publisher's Notes.** This section, concerning the Interagency Task Force for the Implementation of Criminal Justice Prevention Initiatives, which had expired by its own terms on July 1, 2019, was

repealed by Acts 2021, No. 471, § 3, effective July 28, 2021. The section was derived from Acts 2017, No. 423, § 5; 2019, No. 910, §§ 5151-5153.

## SUBCHAPTER 29 — SPECIALTY COURT PROGRAM ADVISORY COMMITTEE

### SECTION.

#### 10-3-2901. Specialty Court Program Advisory Committee.

**Effective Dates.** Acts 2015, No. 895, § 49: Apr. 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that prison overcrowding is one of the largest problems currently burdening the state both from a public safety and budgetary standpoint; that safe and effective measures are needed to immediately combat this problem; and that this act is immediately necessary because in the interests of public safety and the state budget the Department of Correction, Department of Community Correction, Department of Human Services, and the Parole Board should be allowed to immediately implement these new measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

#### 10-3-2901. Specialty Court Program Advisory Committee.

- (a) There is created a Specialty Court Program Advisory Committee.
- (b) The committee shall consist of the following members:



(1) The Chief Justice of the Supreme Court or the Chief Justice's designee who shall serve as Chair of the Specialty Court Program Advisory Committee;

(2) The Director of the Administrative Office of the Courts or the director's designee;

(3) Three (3) circuit court judges who preside over a specialty court program as defined under § 16-10-139(a) to be appointed by the Arkansas Judicial Council, Inc.;

(4) Three (3) district court judges who preside over a specialty court program as defined under § 16-10-139(a) to be appointed by the Arkansas District Judges Council, Inc.;

(5) One (1) circuit court judge who presides over a juvenile drug court program to be appointed by the Arkansas Judicial Council, Inc.;

(6) The Director of the Division of Community Correction or the director's designee;

(7) The Secretary of the Department of Human Services or the secretary's designee;

(8) The Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services or the director's designee;

(9) A prosecutor appointed by the Prosecutor Coordinator;

(10) A public defender appointed by the Executive Director of the Arkansas Public Defender Commission;

(11) A member of the Senate appointed by the President Pro Tempore of the Senate;

(12) A member of the House of Representatives appointed by the Speaker of the House of Representatives; and

(13) The Arkansas Drug Director or the director's designee.

(c) The chair or the chair's designee shall promptly call the first meeting within thirty (30) days after April 1, 2015.

(d)(1) The committee shall conduct its meetings at the State Capitol Building or at any place designated by the chair or the chair's designee.

(2) Meetings shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair.

(e) If any vacancy occurs on the committee, the vacancy shall be filled by the same process as the original appointment.

(f) The committee shall establish rules and procedures for conducting its business.

(g) Members of the committee shall serve without compensation.

(h) A majority of the members of the committee shall constitute a quorum for transacting any business of the committee.

(i) The committee is established to:

(1) Promote collaboration and provide recommendations on issues involving adult and juvenile specialty courts; and

(2) Design and complete the comprehensive evaluation of adult and juvenile specialty court programs as required by § 16-10-139.

**History.** Acts 2015, No. 895, § 5; 2017, No. 326, § 1; 2017, No. 913, § 36; 2019, No. 910, § 5154.

**A.C.R.C. Notes.** Acts 2015, No. 895, § 1, provided: "Legislative intent. It is the intent of the General Assembly to implement wide-ranging reforms to the criminal justice system in order to address prison overcrowding, promote seamless reentry into society, reduce medical costs incurred by the state and local governments, aid law enforcement agencies in fighting crime and keeping the peace, and to enhance public safety."

**Amendments.** The 2017 amendment by No. 326 substituted "Three (3) district court judges who preside" for "One (1) district court judge who presides" in (b)(4).

The 2017 amendment by No. 913 substituted "Division of Aging, Adult, and Behavioral Health Services" for "Division of Behavioral Health Services" in (b)(8).

The 2019 amendment substituted "Secretary of the Department of Human Services" for "Director of the Department of Human Services" and "secretary's designee" for "director's designee" in (b)(7).

### SUBCHAPTER 30 — BEHAVIORAL HEALTH TREATMENT ACCESS LEGISLATIVE TASK FORCE

SECTION.

10-3-3001. [Repealed.]

**Effective Dates.** Acts 2015, No. 895, § 49: Apr. 1, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that prison overcrowding is one of the largest problems currently burdening the state both from a public safety and budgetary standpoint; that safe and effective measures are needed to immediately combat this problem; and that this act is immediately necessary because in the interests of public safety and the state budget the Department of Correction, Department of Community Correction, Department of Human Services, and the Parole Board should be allowed to immediately implement these new measures. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 129: May 23, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the membership and duties of certain agencies, task forces, committees, and commissions and repeals other governmental entities; that these revisions and repeals of governmental entities impact the expenses and operations of state government; and that the provisions of this act should become effective as soon as possible to allow for implementation of the new provisions in advance of the upcoming fiscal year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."



**10-3-3001. [Repealed.]**

**Publisher's Notes.** This section, concerning the Behavioral Health Treatment Access Legislative Task Force, which had expired by its own terms on September 30, 2017, was repealed by Acts 2021, No. 471,

§ 4, effective July 28, 2021. The section was derived from Acts 2015, No. 895, § 6; 2016 (3rd Ex. Sess.), No. 2, § 26; 2016 (3rd Ex. Sess.), No. 3, § 26.

**SUBCHAPTER 31 — HIGHWAY COMMISSION REVIEW AND ADVISORY  
SUBCOMMITTEE OF THE LEGISLATIVE COUNCIL****SECTION.**

10-3-3101. Creation.

10-3-3102. Duties.

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**A.C.R.C. Notes.** Acts 2016 (3rd Ex. Sess.), No. 1, § 1, provided: "This act shall be known and may be cited as the 'Arkansas Highway Improvement Plan of 2016'."

**Effective Dates.** Acts 2016 (3rd Ex. Sess.), No. 1, § 23: July 1, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas bridges and roads are in need of repair and proper maintenance; that the repair and proper maintenance of Arkansas bridges and roads are necessary for the preservation of the public peace, health, and safety; that increased funding is es-

sential to the repair and proper maintenance of Arkansas bridges and roads; that this act is designed to provide the necessary funding that is essential to the repair and proper maintenance of Arkansas bridges and roads, and this act is necessary because without this increased funding, the repair and proper maintenance of Arkansas bridges and roads may not be performed. Therefore, an emergency is declared to exist, and Sections 1-8, 13, 15, 18-21 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2016."

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**10-3-3101. Creation.**

(a) The Highway Commission Review and Advisory Subcommittee of the Legislative Council is created.

(b)(1) The Highway Commission Review and Advisory Subcommittee of the Legislative Council shall consist of twenty (20) members with at least four (4) or more members of the General Assembly from each congressional district of the state.

(2) The Legislative Council, through a suspension of its rules, may alter the membership of the Highway Commission Review and Advisory Subcommittee of the Legislative Council.

**History.** Acts 2016 (3rd Ex. Sess.), No. 1, § 3.

**10-3-3102. Duties.**

(a) The Highway Commission Review and Advisory Subcommittee of the Legislative Council shall review:

(1)(A) Proposed rules of the State Highway Commission required under § 27-65-107(a)(18)(A).

(B)(i) Subdivision (a)(1)(A) of this section is limited to rule review only.

(ii) Rules promulgated by the State Highway Commission are not subject to approval by the Highway Commission Review and Advisory Subcommittee of the Legislative Council, the Legislative Council, or the Administrative Rules Subcommittee of the Legislative Council under this section or § 10-3-309; and

(2) Other State Highway Commission matters the Highway Commission Review and Advisory Subcommittee of the Legislative Council considers necessary to perform its duties under this section.

(b) The Highway Commission Review and Advisory Subcommittee of the Legislative Council shall perform such other duties as may be assigned to it by the Legislative Council.

(c) As a subcommittee of the Legislative Council, actions of the Highway Commission Review and Advisory Subcommittee of the Legislative Council shall be reported to the Legislative Council for final consideration and adoption.

**History.** Acts 2016 (3rd Ex. Sess.), No. 1, § 3; 2019, No. 315, § 749.

**Amendments.** The 2019 amendment substituted “Administrative Rules Subcommittee” for “Administrative Rules and Regulations Subcommittee” in (a)(1)(B)(ii).

**SUBCHAPTER 32 — CHILD MALTREATMENT INVESTIGATIONS OVERSIGHT COMMITTEE**

SECTION.	SECTION.
10-3-3201. Legislative intent.	10-3-3203. Confidentiality — Unlawful disclosure.
10-3-3202. Child Maltreatment Investigations Oversight Committee — Creation — Membership — Meetings — Definition.	10-3-3204. Report.

**10-3-3201. Legislative intent.**

The General Assembly intends to establish the Child Maltreatment Investigations Oversight Committee as a mechanism to promote transparency and efficiency concerning procedures of child maltreatment investigations in this state.

**History.** Acts 2017, No. 713, § 1.



**10-3-3202. Child Maltreatment Investigations Oversight Committee — Creation — Membership — Meetings — Definition.**

(a)(1) There is created a legislative committee to be known as the “Child Maltreatment Investigations Oversight Committee” that shall review and evaluate:

(A) The conduct of child maltreatment investigations completed by the Division of Children and Family Services of the Department of Human Services or the Crimes Against Children Division of the Division of Arkansas State Police; and

(B) Service delivery to children and families involved in an investigation of child maltreatment.

(2) All cases that are reviewed and evaluated under this section shall:

(A) Be completed investigations of child maltreatment; and

(B) Not be associated with a pending dependency-neglect case.

(b)(1) The Child Maltreatment Investigations Oversight Committee shall be composed of the following members:

(A) The Director of the Division of Children and Family Services of the Department of Human Services, or his or her designee;

(B) The Commander of the Crimes Against Children Division of the Division of Arkansas State Police, or his or her designee;

(C) One (1) representative from the Governor’s office, as selected by the Governor;

(D) One (1) attorney who is employed as parent counsel;

(E) One (1) dependency-neglect attorney ad litem;

(F) One (1) attorney who:

(i) Has experience representing parents in child welfare cases; and

(ii) Is not contracted by the state;

(G) One (1) judge or justice, who may be a retired judge or justice;

(H) One (1) current or former representative from the court-appointed special advocate program;

(I) One (1) representative from a child advocacy center;

(J)(i) One (1) parent who was previously designated as a subject of the report.

(ii) As used in subdivision (b)(1)(J)(i) of this section, “subject of the report” means:

(a) The offender;

(b) The custodial and noncustodial parents, guardians, and legal custodians of the child who is subject to suspected maltreatment; and

(c) The child who is the subject of suspected maltreatment;

(K) One (1) adult who was previously in the custody of the state as a foster child due to a true finding of child maltreatment or neglect;

(L) One (1) current foster parent;

(M)(i) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs or his or her designee.

(ii) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs shall be a nonvoting ex officio

member of the Child Maltreatment Investigations Oversight Committee if he or she appoints a designee under subdivision (b)(1)(M)(i) of this section;

(N)(i) The Chair of the Senate Interim Committee on Children and Youth or his or her designee.

(ii) The Chair of the Senate Interim Committee on Children and Youth shall be a nonvoting ex officio member of the Child Maltreatment Investigations Oversight Committee if he or she appoints a designee under subdivision (b)(1)(N)(i) of this section;

(O) Two (2) members of the General Assembly who are members of the:

(i) House Committee on Aging, Children and Youth, Legislative and Military Affairs; or

(ii) Senate Interim Committee on Children and Youth;

(P)(i) One (1) current or former member of the General Assembly who is a current or former member of the:

(a) House Committee on Aging, Children and Youth, Legislative and Military Affairs; or

(b) Senate Interim Committee on Children and Youth.

(ii) The current or former member of the General Assembly under subdivision (b)(1)(P)(i) of this section shall be appointed by the Governor;

(Q) The Director of the Dependency-Neglect Attorney Ad Litem Program or his or her designee;

(R) An attorney who practices dependency-neglect appellate law, who shall be selected by the Chair of the Child Maltreatment Investigations Oversight Committee; and

(S) The Executive Director of the Commission for Parent Counsel or his or her designee.

(2) Unless otherwise provided under this section, the members listed under subdivisions (b)(1)(A)-(S) of this section shall be selected by the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Interim Committee on Children and Youth in consultation with members of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(3) The members of the Child Maltreatment Investigations Oversight Committee annually shall elect from their legislative membership the Chair of the Child Maltreatment Investigations Oversight Committee.

(c)(1) Members of the Child Maltreatment Investigations Oversight Committee shall serve three-year staggered terms.

(2)(A) A current or former legislative member of the Child Maltreatment Investigations Oversight Committee shall serve for a term that expires following the general election that occurs after he or she is chosen to serve on the Child Maltreatment Investigations Oversight Committee, and until his or her replacement is selected or appointed under this section.



(B) A current or former legislative member of the Child Maltreatment Investigations Oversight Committee under subdivision (c)(2)(A) of this section may be appointed or selected to serve consecutive terms.

(d)(1)(A) The Chair of the Child Maltreatment Investigations Oversight Committee shall guide the Child Maltreatment Investigations Oversight Committee in its discussion, evaluation, and review of the:

(i) Conduct of child maltreatment investigations completed by the Division of Children and Family Services of the Department of Human Services or the Crimes Against Children Division of the Division of Arkansas State Police; and

(ii) Service delivery to children and families involved in an investigation of child maltreatment.

(B) Guidance from the Chair of the Child Maltreatment Investigations Oversight Committee under subdivision (d)(1)(A) of this section shall include without limitation:

(i) Selection of closed child maltreatment cases to be considered by the Child Maltreatment Investigations Oversight Committee; and

(ii) Criteria by which to evaluate the conduct of child maltreatment investigations and service delivery under subdivisions (d)(1)(A)(i) and (ii) of this section.

(2) A member of the General Assembly may submit a case to the Child Maltreatment Investigations Oversight Committee for discussion, evaluation, and review.

(e) Staff for the meetings of the Child Maltreatment Investigations Oversight Committee shall be provided by the Bureau of Legislative Research.

(f) The following persons may attend a meeting of the Child Maltreatment Investigations Oversight Committee:

(1) No more than three (3) employees of the Department of Human Services who are selected by the Director of the Division of Children and Family Services of the Department of Human Services or by his or her designee who may be selected under subdivision (b)(1)(A) of this section;

(2) No more than three (3) employees of the Crimes Against Children Division of the Division of Arkansas State Police who are selected by the Commander of the Crimes Against Children Division or by his or her designee who may be selected under subdivision (b)(1)(B) of this section;

(3) No more than five (5) members of the General Assembly who are:

(A) Not members of the Child Maltreatment Investigations Oversight Committee; and

(B) Selected by the Chair of the Child Maltreatment Investigations Oversight Committee; and

(4)(A) A member of the General Assembly who submits a case to the Child Maltreatment Investigations Oversight Committee for discussion, evaluation, and review.

(B) A member of the General Assembly who submits a case to the Child Maltreatment Investigations Oversight Committee shall not

participate in any discussion, evaluation, or review of the case that occurs during a meeting of the Child Maltreatment Investigations Oversight Committee.

**History.** Acts 2017, No. 713, § 1; 2019, No. 1081, §§ 1-4.

**A.C.R.C. Notes.** Acts 2017, No. 713, § 2, provided:

“(a) The membership of the Child Maltreatment Investigations Oversight Committee shall be determined within sixty (60) days of the effective date of this act [Aug. 1, 2017].

“(b) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Chair of the Senate Interim Committee on Children and Youth shall call the first meeting.

“(c) At the first meeting, the initial members of the Child Maltreatment Investigations Oversight Committee shall:

“(1) Determine by lot their respective staggered terms; and

“(2) Elect from its legislative membership the Chair of the Child Maltreatment Investigations Oversight Committee.”

**Amendments.** The 2019 amendment rewrote (b)(1); deleted the introductory language of former (b)(2) and redesignated the remainder of former (b)(2) as part of (b)(1); rewrote (b)(1)(M); inserted (b)(1)(N); redesignated and rewrote former (b)(1)(N) as (b)(1)(O); redesignated former (b)(1)(O) as (b)(1)(P); added (b)(1)(Q) through (b)(1)(S); added (b)(2) and (b)(3); redesignated former (d)(1) and (d)(2) as (d)(1)(A) and (d)(1)(B); added (d)(2); added (f); and updated internal references and made stylistic changes.

### 10-3-3203. Confidentiality — Unlawful disclosure.

(a) Except as otherwise provided under § 10-3-3202(f), the meetings of the Child Maltreatment Investigations Oversight Committee are closed and are exempt from public observance under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) Correspondence between Child Maltreatment Investigations Oversight Committee members and information considered by the Child Maltreatment Investigations Oversight Committee in furtherance of the goals of the Child Maltreatment Investigations Oversight Committee are exempt from public inspection and copying under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c)(1) A member of the Child Maltreatment Investigations Oversight Committee may have access to and may disclose any child maltreatment record to the extent authorized by:

(A) This subchapter;

(B) The Child Maltreatment Act, § 12-18-101 et seq.; and

(C) Any other law of this state concerning child maltreatment records.

(2) Except as provided under subdivisions (c)(3) and (4) of this section, a member of the Child Maltreatment Investigations Oversight Committee shall not disclose to any other person:

(A) Any child maltreatment record obtained during or in relation to a meeting of the Child Maltreatment Investigations Oversight Committee; and

(B) The details of a discussion related to any child maltreatment record that occurs during or in relation to a meeting of the Child Maltreatment Investigations Oversight Committee.



(3) A legislative member of the Child Maltreatment Investigations Oversight Committee, acting in his or her official capacity, may disclose information from a child maltreatment record that is obtained under this section to:

(A) Federal, state, and local governmental entities, or any agent of such entities, that have a need for such information to carry out their responsibilities under law to protect children from maltreatment;

(B)(i) Acting in their official capacities under law to protect children, individual United States and Arkansas senators and representatives and their authorized staff members but only if they agree not to permit redisclosure of the information except for a legitimate state purpose to protect children from child maltreatment.

(ii) However, disclosure shall not be made to any public committee or legislative body; and

(C) Acting in their official capacities under law to protect children, the Governor and the Governor's authorized staff members but only if they agree not to permit redisclosure of the information except for a legitimate state purpose to protect children from child maltreatment.

(4) Information obtained under this section may be disclosed to the Governor by a member of the Child Maltreatment Investigations Oversight Committee who serves on the Child Maltreatment Investigations Oversight Committee as:

(A) The representative from the Governor's office selected by the Governor under § 10-3-3202(b)(1)(C); or

(B) The current or former member of the General Assembly appointed by the Governor under § 10-3-3202(b)(1)(P)(ii).

(d)(1) A person commits the offense of unlawful disclosure of data or information under this subchapter if the person knowingly discloses data or information to a person to whom disclosure is not permitted by this subchapter.

(2) Unlawful disclosure of data or information under this subchapter is a Class A misdemeanor.

**History.** Acts 2017, No. 713, § 1; 2019, No. 1081, §§ 5, 6. added "Except as otherwise provided under § 10-3-3202(f), the" in (a); and rewrote

**Amendments.** The 2019 amendment (c).

### 10-3-3204. Report.

(a) The Child Maltreatment Investigations Oversight Committee shall submit its findings and recommendations contained in a report at least annually to the House Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth.

(b) The report shall not contain information that identifies:

(1) A subject of a report of child maltreatment; or

(2) The person who made the report of child maltreatment.

**History.** Acts 2017, No. 713, § 1.

## CHAPTER 4

### LEGISLATIVE AUDIT

SUBCHAPTER.

3. ARKANSAS GOVERNMENTAL COMPLIANCE ACT.

4. ARKANSAS LEGISLATIVE AUDIT.

#### SUBCHAPTER 3 — ARKANSAS GOVERNMENTAL COMPLIANCE ACT

SECTION.

10-4-304. Laws within purview of subchapter.

SECTION.

10-4-305. Notice of deficiencies.

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**Effective Dates.** Acts 2015, No. 557,  
§ 9: Aug. 1, 2015.

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#### 10-4-304. Laws within purview of subchapter.

The fiscal management laws coming within the purview of this subchapter are as follows:

- (1) Sections 14-25-101 — 14-25-114, and § 14-25-115 [repealed];
- (2) Sections 14-22-101 — 14-22-115;
- (3) Section 14-16-105(b)-(e);
- (4) Section 26-39-201;
- (5) Section 26-35-1001 [repealed];
- (6) Section 26-28-111(a);
- (7) The County Government Code, § 14-14-101 et seq.;
- (8) Sections 14-59-101 — 14-59-116;
- (9) Sections 16-10-201 — 16-10-210;
- (10) Section 22-9-203(a) and (b);
- (11) Section 16-92-110 [repealed];
- (12) Sections 26-79-104(b) and 27-70-207(c);
- (13) Arkansas Constitution, Amendment 13 [repealed];
- (14) Sections 14-237-101 — 14-237-113;
- (15) Section 6-13-618, § 6-17-910 [repealed], §§ 6-17-912, 6-17-913, 6-17-918, and 6-17-919;
- (16) Sections 19-1-401 — 19-1-405;
- (17) Sections 19-4-101 — 19-4-2004;
- (18) Arkansas Code Title 19, Chapter 11;
- (19) Sections 21-4-201 — 21-4-213;
- (20) Sections 21-1-103 and 21-5-101 — 21-5-104;
- (21) Sections 21-5-201 — 21-5-218;
- (22) Section 6-20-101 [repealed] and §§ 6-20-102 — 6-20-1515; and
- (23) Sections 6-21-101 — 6-21-608.



**History.** Acts 1979, No. 111, § 2; A.S.A. 1947, § 4-711; Acts 1989, No. 47, § 2; 2011, No. 752, § 2; 2015, No. 557, § 1.

### 10-4-305. Notice of deficiencies.

(a) The Legislative Joint Auditing Committee shall establish the following procedure for giving written notice to a public servant of deficiencies in the operation or performance of the public servant's official duties as provided by the laws of the State of Arkansas in the fiscal management of the public servant's duties.

(b)(1) The cochair of the Legislative Joint Auditing Committee shall give notice by certified letter to the public servant with a provision for response to the letter thirty (30) days from the date of the receipt of the letter by the public servant.

(2) The letter shall contain a summary of the audit findings of noncompliance denoted in the audit report prepared by the staff of the Legislative Joint Auditing Committee on the operations of the public servant's office, duties, and responsibilities as provided by the laws named in § 10-4-304.

(3) The notice shall offer the assistance of the Legislative Joint Auditing Committee to the public servant on actions necessary to effect compliance with the laws named in § 10-4-304.

(c)(1) The Legislative Joint Auditing Committee may require a municipal official who is responsible for any deficiencies under subsection (a) of this section to attend relevant training courses provided by the Arkansas Municipal League, Arkansas Legislative Audit, or other appropriate training program.

(2)(A) Reimbursement for the training is authorized for expenses at the rate authorized for state employees and for mileage at the rate established in the state travel rules for state employees while traveling within the state in the performance of their official duties.

(B) Reimbursement for the training is subject to specific appropriation for that purpose.

**History.** Acts 1979, No. 111, § 2; A.S.A. 1947, § 4-711; Acts 2011, No. 611, § 1; 2015, No. 554, § 6; 2019, No. 315, § 750.

**A.C.R.C. Notes.** Acts 2015, No. 554, § 1, provided: "Division of Legislative Audit renamed 'Arkansas Legislative Audit'."

"(a)(1) The Division of Legislative Audit, as it is referred to or empowered throughout the Arkansas Code, is renamed.

"(2) In its place, Arkansas Legislative Audit is established, succeeding to the general powers and responsibilities previously assigned to the Division of Legislative Audit.

"(3) The Legislative Auditor shall identify and revise all interagency documents,

financial instruments, funds, and other necessary legal documents in order to effect this change.

"(b) This act does not impair the powers and authority of the Division of Legislative Audit before the effective date of this act.

"(c) Appropriations authorized for the personal services and operating expenses of the Division of Legislative Audit may be utilized for the personal services and operating expenses of Arkansas Legislative Audit.

"(d) This act does not impair the continued effectiveness of rules or orders promulgated or issued by the Division of Legislative Audit before the effective date

of this act.

“(e) The Arkansas Code Revision Commission shall make all changes in the Arkansas Code necessary to effectuate the

intent of this act.”

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (c)(2)(A).

#### SUBCHAPTER 4 — ARKANSAS LEGISLATIVE AUDIT

##### SECTION.

10-4-401. Arkansas Legislative Audit — Creation.

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10-4-403. Authority of Legislative Auditor.

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##### SECTION.

10-4-419. Report of improper or illegal practices.

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10-4-429. Report of security incident — Definitions.

**A.C.R.C. Notes.** Acts 2015, No. 554, § 1, provided: “Division of Legislative Audit renamed ‘Arkansas Legislative Audit’.

“(a)(1) The Division of Legislative Audit, as it is referred to or empowered throughout the Arkansas Code, is renamed.

“(2) In its place, Arkansas Legislative Audit is established, succeeding to the general powers and responsibilities previously assigned to the Division of Legislative Audit.

“(3) The Legislative Auditor shall identify and revise all interagency documents, financial instruments, funds, and other necessary legal documents in order to effect this change.

“(b) This act does not impair the powers and authority of the Division of Legislative Audit before the effective date of this act.

“(c) Appropriations authorized for the personal services and operating expenses of the Division of Legislative Audit may be utilized for the personal services and op-

erating expenses of Arkansas Legislative Audit.

“(d) This act does not impair the continued effectiveness of rules or orders promulgated or issued by the Division of Legislative Audit before the effective date of this act.

“(e) The Arkansas Code Revision Commission shall make all changes in the Arkansas Code necessary to effectuate the intent of this act.”

**Effective Dates.** Acts 2017, No. 736, § 9; Mar. 29, 2017, § 6. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2017 is essential to the operation of the agency for which the appropriations in this Act are provided, with the exception that Section 6 in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an



extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2017, with the exception that Section 6 in this Act shall be in full force and effect from and after the date of its passage and approval, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2017, with the exception that Section 6 in this Act shall be in full force and effect from and after the date of its passage and approval.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this

act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

#### 10-4-401. Arkansas Legislative Audit — Creation.

(a) There is created under the authority of the General Assembly an agency known as “Arkansas Legislative Audit”.

(b) Arkansas Legislative Audit shall be headed by the Legislative Auditor, who shall be selected by the Legislative Joint Auditing Committee.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 7.

#### 10-4-402. Definitions.

(a) As used in this subchapter:

(1) “Audit” means a financial audit, performance audit, information technology audit, review, report of agreed-upon procedures, compilation, examination, investigation, or other report or procedure approved by the Legislative Joint Auditing Committee for an entity of the state or a political subdivision of the state;

(2) “Entity of the state” means the State of Arkansas as a whole or any department, institution of higher education, board, commission, agency, quasi-public organization, official, office, or employee, or any agency, instrumentality, or function thereof;

(3) “Financial audit” means a systematic examination of the financial statements of an entity and the related supporting evidence for the purpose of expressing an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with accounting principles generally accepted in the United States, another comprehensive basis of accounting, or a regulatory basis, as applicable;

(4) "Other funds" means any funds or assets held by a person, foundation, nonprofit corporation, or any other entity for the specific benefit of a particular entity or entities of the state or political subdivision of the state;

(5) "Political subdivision of the state" means any county, municipality, school, quasi-public organization, district, official, office, or employee, or any agency, instrumentality, or function thereof;

(6) "Public funds" means any funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by, or passed through an entity of the state or a political subdivision of the state; and

(7) "School" means any public school district, charter school, or education service cooperative, or any publicly supported entity having supervision over public educational entities.

(b) The definitions in this subchapter are limited to this subchapter only, and shall not be used or interpreted as applying to the Freedom of Information Act of 1967, § 25-19-101 et seq.

**History.** Acts 2005, No. 2201, § 7;  
2007, No. 617, § 37; 2015, No. 554, § 8.

#### **10-4-403. Authority of Legislative Auditor.**

(a) The Legislative Auditor has the authority to perform an audit of any entity of the state, political subdivision of the state, or transaction relating to public funds and to prepare a written report of the audit to the Legislative Joint Auditing Committee and to the entity being audited.

(b)(1) In addition, the Legislative Auditor has the authority to investigate documents, books, and records regarding receipt, expenditure, or disbursement of other funds if the Legislative Auditor determines, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(2)(A) This section does not authorize or permit the Legislative Auditor to release information:

(i) When otherwise prohibited by law; or

(ii) Not subject to public inspection under the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law.

(B) All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation, or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure when in the possession of the Legislative Auditor.



(C) Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(c) The Legislative Auditor may conduct any audit or investigation that in his or her judgment is proper and necessary to carry out the purpose and intent of this subchapter or to assist the General Assembly in the proper discharge of its duties.

(d)(1) In conducting audits of entities of the state or political subdivisions of the state, the Legislative Auditor shall have access at all times to and have the authority to examine any record or documentation relating to transactions with these entities or subdivisions, regardless of the nature, custodian, or location of those records.

(2) However, in the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the Legislative Auditor must determine, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(e) The Legislative Auditor has the authority to require the aid and assistance of all officials, auditors, accountants, and other employees of each entity of the state or political subdivision of the state at all times in the inspection, examination, and audit of any books, accounts, transactions, financial statements, or any other pertinent records.

(f) In conducting audits of entities of the state or political subdivisions of the state or verifying transactions with the entities of the state or political subdivision of the state, and in the investigation of other funds, the Legislative Auditor has the authority to summon and issue subpoenas for the appearance of individuals or the production of documents or other records.

(g)(1) The Legislative Auditor may make specific recommendations to the Legislative Joint Auditing Committee and the General Assembly for the amendment of existing laws or the passage of new laws designed to improve the functioning of entities of the state and political subdivisions of the state to the end that more efficient service may be rendered and the cost of government reduced.

(2) The Legislative Auditor shall not include in his or her recommendations to the General Assembly any recommendations as to the sources from which taxes shall be raised to meet the governmental expense.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 9; 2021, No. 591, § 1. **Amendments.** The 2021 amendment inserted “or subdivisions” in (d)(1).

#### **10-4-407. Duties of Legislative Auditor.**

The Legislative Auditor shall:

(1) Personally, or through the Legislative Auditor's authorized assistants and employees, conduct audits of any entity of the state or political subdivision of the state now in existence or hereafter created;

(2) Make recommendations to the Legislative Joint Auditing Committee and respective entities regarding the:

(A) Improvement of the accounting systems used by any entity of the state or political subdivision of the state; or

(B) Proper installation and utilization of the accounting system;

(3) Call attention to any funds which, in his or her opinion, have not been expended in accordance with the law, appropriation, ordinance, rule, or other legal requirement and shall make recommendations to the Legislative Joint Auditing Committee, the General Assembly, and other applicable governing bodies as to the manner or form of appropriations which will avoid any improper expenditure of money in the future;

(4) Report to the proper authorities apparent improper or illegal practices contained in audit reports;

(5) Provide technical assistance in establishing uniform systems of recordkeeping within the entities of the state and political subdivisions of the state insofar as it is practical to do so and not inconsistent with law or professional standards; and

(6) Require, on forms prescribed or made available, the filing with Arkansas Legislative Audit of financial reports at such times as the Legislative Auditor deems advisable.

**History.** Acts 2005, No. 2201, § 7; **Amendments.** The 2019 amendment 2015, No. 554, § 10; 2019, No. 315, § 751. substituted "rule" for "regulation" in (3).

#### **10-4-408. Disbursing officer — Payment of salaries.**

(a)(1) The Legislative Auditor is designated as disbursing officer for Arkansas Legislative Audit.

(2) All vouchers issued in the payment of salaries and expenses incurred in the operations of Arkansas Legislative Audit shall be approved by the Legislative Auditor or the Legislative Auditor's authorized designee or designees before the salaries and expenses are paid.

(b) In case a vacancy exists in the position of Legislative Auditor, the Legislative Joint Auditing Committee may designate a disbursing agent or agents for Arkansas Legislative Audit who shall serve until the position of Legislative Auditor is filled.

(c) The salary of the Legislative Auditor and the other employees of Arkansas Legislative Audit shall be paid in the same manner and through the same procedure used for the payment of salaries of other state employees.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 11.



**10-4-409. Personnel.**

(a) Subject to an annual appropriation therefor, all employees of Arkansas Legislative Audit shall be selected and appointed by the Legislative Auditor.

(b)(1) The Legislative Auditor shall be free to select the most efficient personnel available for each position in Arkansas Legislative Audit, to the end that he or she may render to the members of the General Assembly that service which the members have a right to expect.

(2) The Legislative Auditor may conduct such professional examination as he or she may deem expedient in determining the qualifications of the persons whom he or she contemplates placing on his or her staff.

(c)(1) No person related to any member of the General Assembly or to the Legislative Auditor in the first degree of consanguinity or affinity may be employed on the staff of Arkansas Legislative Audit.

(2) However, subdivision (c)(1) of this section does not apply if an individual is initially employed with Arkansas Legislative Audit before his or her relative is elected as a member of the General Assembly.

(d)(1) It is the intention and desire of the General Assembly to free the Legislative Auditor and his or her staff from partisan politics.

(2) It is declared to be against public policy for any member of the General Assembly or any official or employee of the entities of the state or political subdivisions of the state to recommend or suggest the appointment of any person to a position on the staff of the Legislative Auditor.

**History.** Acts 2005, No. 2201, § 7;  
2015, No. 554, § 12; 2015, No. 1150, § 5.

**10-4-410. Audit costs.**

(a)(1) The Legislative Auditor shall cause to be maintained a sufficient accounting of the audit costs incurred by Arkansas Legislative Audit in auditing entities of the state and political subdivisions of the state.

(2) The audit costs shall provide a basis for determining a reasonable reimbursement from entities of the state and political subdivisions of the state for the cost of auditing federal funds received by these entities or subdivisions.

(b)(1) The administrative cost of auditing political subdivisions of the state shall be paid from the Ad Valorem Tax Fund as prescribed by § 19-5-906.

(2) If these taxes or any part thereof are no longer collected or deposited into the State Treasury or if there is a diminution in these taxes, then the operating cost of auditing the political subdivisions of the state incurred by Arkansas Legislative Audit shall be paid from other moneys deposited into the General Revenue Fund Account of the State Apportionment Fund.

(3) As soon as practical after the close of each fiscal year, the Legislative Auditor shall certify to the Chief Fiscal Officer of the State

the amount of funds expended during the fiscal year just ending which is to be allocated to the state audit function and to the local audit function of Arkansas Legislative Audit.

(4) The Chief Fiscal Officer of the State shall utilize this certification in determining those expenses which are eligible to be reimbursed from the Ad Valorem Tax Fund.

(c) If it is determined by the Legislative Joint Auditing Committee that the reimbursement for the auditing of entities of the state is appropriate, the Legislative Auditor and the Secretary of the Department of Finance and Administration shall develop guidelines for effecting proper budgetary and accounting procedures for the reimbursements.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 13; 2019, No. 910, § 3373; 2021, No. 591, § 2.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (c).

The 2021 amendment added "or subdivisions" in (a)(2).

#### **10-4-411. Audits of entities of the state.**

(a) Except as provided in subdivision (b)(1) of this section, the Legislative Auditor shall audit entities of the state.

(b)(1)(A) However, any licensing board or with the approval of the Legislative Joint Auditing Committee any other entity of the state may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct the entity's annual financial audit in accordance with auditing standards generally accepted in the United States and the Government Auditing Standards issued by the Comptroller General of the United States.

(B) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(2) If an annual financial audit of an entity of the state is deemed by the Legislative Auditor as necessary for the audit of the comprehensive annual financial report of the State of Arkansas, then any contract with a private certified public accountant for the entity's annual financial audit shall include provisions requiring the annual financial audit to be completed and filed with Arkansas Legislative Audit by a date determined by the Legislative Auditor.

(3) All reports of the annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report to the applicable governing body.

(4) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any entity of the state.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 14.



**10-4-412. Audits of counties and municipalities.**

(a)(1) Except as provided in subdivision (a)(2) of this section, the Legislative Auditor shall audit counties and municipalities in the state.

(2)(A)(i) Any municipality may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct a financial audit as prescribed in subsection (b) of this section.

(ii) All reports of the annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report.

(B) Nothing in subdivision (a)(2)(A) of this section limits the authority of the Legislative Auditor to conduct an audit of any municipality.

**(b) FINANCIAL AUDITS.**

(1)(A) For purposes of this subsection, a financial audit shall be planned and conducted, and the results of the work reported in accordance with auditing standards generally accepted in the United States and the Government Auditing Standards issued by the Comptroller General of the United States.

(B) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

**(2) REGULATORY BASIS.**

(A) For county and municipal financial audits, the financial statements shall be presented on a fund-basis format with, at a minimum, the general fund and the street or road fund presented separately, and all other funds included in the audit presented in the aggregate.

(B) The financial statements shall consist of the following:

(i) A balance sheet;

(ii) A statement of revenues (receipts), expenditures (disbursements), and changes in fund equity (balances);

(iii) A comparison of the final adopted budget to the actual expenditures for the general fund and street or road fund of the entity; and

(iv) Notes to the financial statements.

(C) The report shall include as supplemental information a schedule of capital assets, including:

(i) Land;

(ii) Buildings; and

(iii) Equipment.

(3) **ALTERNATIVE BASIS.** As an alternative to the basis prescribed in subdivision (b)(2) of this section, the governing body of a municipality or a county may adopt an annual resolution requiring its annual financial audit to be performed and financial statements presented in accordance with the standards prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office, if applicable.

(c) AGREED-UPON PROCEDURES AND COMPILATION REPORTS.

(1) As an alternative to a financial audit, the Legislative Auditor may conduct an agreed-upon procedures and compilation engagement of the records and accounts of all municipal or county offices, officials, or employees.

(2) For purposes of this subsection, agreed-upon procedures and compilation engagements shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants and subject to the minimum procedures prescribed by the Legislative Joint Auditing Committee.

(3)(A) Unless otherwise provided by law, the governing body of a municipality may choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct agreed-upon procedures and compilation engagements.

(B) All reports shall be filed with the Legislative Auditor within ten (10) days of issuance.

**History.** Acts 2005, No. 2201, § 7; 2011, No. 349, § 1; 2015, No. 554, § 15. **Cross References.** Required audit inquiry, § 12-8-405.

#### 10-4-413. Audits of schools.

(a) Except as provided in subdivision (b)(1) of this section, the Legislative Auditor shall audit schools.

(b)(1)(A) A school may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct an annual financial audit in accordance with auditing standards generally accepted in the United States and the Government Auditing Standards issued by the Comptroller General of the United States.

(B) If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:

(i) The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant or licensed accountant in public practice under subdivision (b)(1)(A) of this section; and

(ii) The State Board of Education approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.

(C) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(2) Every report of an annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report to the school board.

(3) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any school.



(c) **REGULATORY BASIS.**

(1) For school financial audits, the financial statements shall be presented on a fund basis format with, as a minimum, the general fund and the special revenue fund presented separately and all other funds included in the audit presented in the aggregate.

(2) The financial statements shall consist of the following:

(A) A balance sheet;

(B) A statement of revenues, expenditures, and changes in fund balances;

(C) A comparison of the final adopted budget to the actual expenditures for the general fund of the entity and the special revenue fund of the entity; and

(D) Notes to the financial statements.

(3) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(4) The report shall include as supplemental information a schedule of capital assets, including:

(A) Land;

(B) Buildings; and

(C) Equipment.

(5) The State Board of Education shall promulgate rules necessary to administer the regulatory basis provided in this subsection.

**History.** Acts 2005, No. 2201, § 7; redesignated former (c)(1) as (c), deleted 2011, No. 993, § 16; 2015, No. 554, § 16; former (c)(2), and redesignated the remaining subdivisions accordingly. 2019, No. 867, § 1.

**Amendments.** The 2019 amendment

## **10-4-414. Audits of prosecuting attorneys.**

(a) The Legislative Auditor shall audit prosecuting attorneys in the State of Arkansas.

(b) **REGULATORY BASIS.**

(1) For prosecuting attorney financial audits, the financial statements shall be presented on a fund basis format with, at a minimum, the general fund presented separately and all other funds included in the audit presented in the aggregate.

(2) The financial statements shall consist of the following:

(A) A balance sheet;

(B) A statement of revenues (receipts), expenditures (disbursements), and changes in fund equity (balances); and

(C) Notes to the financial statements.

(3) The report shall include as supplemental information a schedule of capital assets, including:

(A) Land;

(B) Buildings; and

(C) Equipment.

**History.** Acts 2005, No. 2201, § 7;  
2015, No. 554, § 17.

#### **10-4-416. Access to records.**

(a)(1) The Legislative Auditor and authorized employees of Arkansas Legislative Audit shall have access at all times to any books, accounts, reports, electronic data, vouchers, or other records, confidential, privileged, or otherwise, of any entity of the state or political subdivision of the state that are deemed necessary to audit transactions related to public funds.

(2) Any business contracting with an entity of the state or a political subdivision of the state to provide electronic or other access to records of an entity or subdivision shall provide Arkansas Legislative Audit access to the entity's or subdivision's records without charge or reimbursement.

(b)(1) In the performance of the Legislative Auditor's duties, the Legislative Auditor or the Legislative Auditor's authorized assistants may ascertain, inspect, confirm, copy, audit, and examine any records, documents, or accounts of any financial institution, business, or non-profit entity or any other person or entity regarding transactions or relationships with an entity of the state or a political subdivision of the state.

(2) In the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the Legislative Auditor shall determine, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(c) No financial institution, business, nonprofit entity, or any other person or entity shall be liable for making available to the Legislative Auditor any of the information required by the Legislative Auditor under this section.

(d)(1) This section does not authorize or permit the Legislative Auditor to release information:

(A) When otherwise prohibited by law; or

(B) Not subject to public inspection under the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law.

(2)(A) All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation, or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure when in the possession of the Legislative Auditor.

(B) Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(e) Records that are exempt from public disclosure in the hands of the entity's or subdivision's custodian remain exempt from public



disclosure in the hands of the Legislative Auditor and Arkansas Legislative Audit.

(f) Any person knowingly providing false documents, records, or other data to the Legislative Auditor or his or her authorized assistants, upon the finding by a circuit court, shall be guilty of providing false information and shall be punished in the same manner as a person guilty of tampering with a public record, § 5-54-121.

**History.** Acts 2005, No. 2201, § 7; 2015, No. 554, § 18; 2021, No. 591, § 3.

**Amendments.** The 2021 amendment inserted “privileged” in (a)(1); in (a)(2), substituted “an entity or subdivision” for

“a public entity” and “the entity’s or subdivision’s records” for “the public entity’s records”; deleted “financial” following “and examine any” in (b)(1); and inserted “or subdivision’s” in (e).

### 10-4-417. Presentation and filing of audit reports.

(a) All audit reports prepared by Arkansas Legislative Audit and any audit report required to be filed with the Legislative Auditor or Arkansas Legislative Audit shall be presented to the Legislative Joint Auditing Committee or a standing committee thereof.

(b) Copies of all audit reports prepared by Arkansas Legislative Audit, and any audit report required to be filed with the Legislative Auditor or Arkansas Legislative Audit shall be presented on the website of Arkansas Legislative Audit in a manner suitable for downloading and printing.

(c) All final reports shall be open to public inspection after presentation to the Legislative Joint Auditing Committee or after being approved for early release by the cochairs of the Legislative Joint Auditing Committee.

(d)(1) The governing body and executive official of an entity of the state or political subdivision of the state shall receive a copy of the entity’s or subdivision’s audit report prior to presentation to the Legislative Joint Auditing Committee.

(2) Until the reports are presented to the Legislative Joint Auditing Committee or approved for early release by the cochairs of the Legislative Joint Auditing Committee, the reports are not considered public information and are not open to public inspection.

(e) The exemption from public inspection under subsections (c) and (d) of this section applies to all reports in the custody or possession of any person before presentation of the report to the Legislative Joint Auditing Committee or approval for early release, regardless of the actual physical location of the report.

**History.** Acts 2005, No. 2201, § 7; 2011, No. 349, §§ 2, 3; 2015, No. 554, § 19; 2021, No. 591, § 4.

**Amendments.** The 2021 amendment inserted “or subdivision’s” in (d)(1).

### 10-4-418. Review of audit report by governing body.

(a) The audit reports and accompanying comments and recommendations relating to any entity of the state or political subdivision of the

state shall be reviewed by the applicable governing body if the entity or subdivision has such a governing body.

(b)(1) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting following receipt of the audit report if the audit report is received by the governing body at least ten (10) days prior to the regularly scheduled meeting.

(2) If the audit report is received by the governing body less than ten (10) days prior to a regularly scheduled meeting, the audit report shall be reviewed at the regularly scheduled meeting falling within the ten-day period or the next regularly scheduled meeting subsequent to the ten-day period.

(c) The governing body shall take appropriate action relating to each finding and recommendation contained in the audit report.

(d) The minutes of the governing body shall document the review of the findings and recommendations and the action taken by the governing body.

**History.** Acts 2005, No. 2201, § 7; **Amendments.** The 2021 amendment inserted "or subdivision" in (a).  
2021, No. 591, § 5.

#### **10-4-419. Report of improper or illegal practices.**

(a)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of improper practices of financial administration or inadequacy of fiscal records, the Legislative Auditor shall report the evidence to the appropriate executive official or officials affected thereby and to the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the findings to the Attorney General for review and appropriate action.

(b)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of apparent unauthorized disbursements or unaccounted-for funds or property by a public official or employee, the Legislative Auditor shall promptly report the transactions in writing to the prosecuting attorney for the county in which the entity of the state or the political subdivision of the state is located, the Governor, the appropriate executive official or officials affected thereby, and the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.



(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the same to the Attorney General for review and appropriate action.

(c)(1) The Legislative Auditor shall notify and cooperate with the appropriate prosecuting attorney on all matters that appear to involve a criminal offense.

(2) Upon request and with the approval of the cochairs of the Legislative Joint Auditing Committee, the Legislative Auditor shall cooperate in any other investigations by the appropriate prosecuting attorney, the Division of Arkansas State Police, or any other state or federal law enforcement agency.

(d)(1) While the Legislative Joint Auditing Committee is not established as an agency to effect through its own direct action the correction of improper practices of financial administration or the inadequacy of fiscal records, the prosecution of defaulting public officials, or the improvement of accounting systems in any entity of the state or political subdivision of the state, it is nevertheless determined that the action or nonaction on the part of the appropriate public officials in respect to the correction of the matters when called to their attention or in respect to the institution of criminal proceedings where proper, has pertinent bearing upon the question of the necessity for future remedial legislation.

(2) It is for this reason that the Legislative Joint Auditing Committee is authorized to inform public officials to the extent provided by law of the findings of the Legislative Auditor in respect to any such matters.

(e)(1) If the Legislative Joint Auditing Committee determines that an entity of the state or a political subdivision of the state has not corrected the deficiencies noted in one (1) or more previous reports, the Legislative Joint Auditing Committee may request the prosecuting attorney of the judicial district in which the entity of the state or the political subdivision of the state is located to take appropriate action to assure that the records of the entity of the state or the political subdivision of the state are maintained in accordance with law.

(2) If the prosecuting attorney fails or refuses to take appropriate action within a reasonable time after receipt of notice from the Legislative Joint Auditing Committee that an entity of the state or a political subdivision of the state is not maintaining its records in substantial compliance with law, the Legislative Joint Auditing Committee may request the Attorney General to take such appropriate action as may be necessary to assure that the records of the entity of the state or political subdivision of the state are maintained in compliance with law.

(f)(1) By June 30 of each year, the Attorney General and each prosecuting attorney to whom the Legislative Joint Auditing Committee or the Legislative Auditor has reported a matter under this section shall file with the Legislative Joint Auditing Committee a disposition report on the status of the matters that have not been previously reported as resolved to the Legislative Joint Auditing Committee.

(2) A disposition report shall address all matters that have not been previously reported as resolved under subdivision (f)(1) of this section prior to and during the preceding calendar year.

(3) A disposition report shall include without limitation:

(A) The date the matter was reported to the Attorney General or the prosecuting attorney;

(B) The amount of loss or funds unaccounted for in connection with the matter;

(C) The status or disposition of the matter; and

(D) Other comments pertinent to the investigation or disposition of the matter.

**History.** Acts 2005, No. 2201, § 7;  
2009, No. 446, § 1; 2015, No. 554, § 20.

#### **10-4-421. Subpoenas — Witnesses — Penalties for failure to appear — Perjury.**

(a) In connection with an audit of any entity of the state or a political subdivision of the state or an audit related to any transactions or relationships with the entities or subdivisions, the Legislative Auditor may subpoena records or summon and subpoena any person whose testimony may be desired or deemed necessary to appear before him or her at a time and place and with such papers, files, and records as may be named in the summons or subpoena.

(b) In conducting any audit or examination, the Legislative Auditor or any authorized assistant has the authority to administer oaths.

(c) Any person summoned to appear before the Legislative Auditor or any of his or her authorized assistants to testify or submit papers, files, and records as required in this section shall receive after his or her appearance the same compensation as is received by persons serving as witnesses in circuit courts of this state.

(d)(1) If any person subpoenaed to appear by the Legislative Auditor fails to appear or to produce books, documents, or records subpoenaed, the fact shall be certified to the circuit court of the county in which the hearing is held, and the circuit court shall punish the person for contempt in the same manner as punishment for contempt is imposed for failure to respond to a subpoena or directive of the circuit court.

(2) If a person placed under oath or subpoenaed by the Legislative Auditor, his or her authorized assistants, or the Legislative Joint Auditing Committee knowingly gives false testimony that is material to an audit, that person shall be deemed guilty of perjury upon conviction by a court of competent jurisdiction.

(e)(1)(A) Subpoenas issued by the Legislative Auditor shall be served by the sheriff of the county in which the person, books, records, or documents subpoenaed are located.

(B) The sheriff shall be entitled to the same fees for the service of process as provided by law for service of process issued by the circuit court.



(2) However, at his or her option the Legislative Auditor may direct the Division of Arkansas State Police to serve any subpoena.

**History.** Acts 2005, No. 2201, § 7; inserted “or subdivisions” in (a); and inserted “after his or her appearance” in (c). 2021, No. 591, §§ 6, 7.

**Amendments.** The 2021 amendment

### CASE NOTES

#### **Failure to Appear.**

Circuit court did not err in finding a witness in criminal contempt because he did not inform counsel for a legislative audit committee that he had a conflict, but merely left a voicemail that he was not going to appear at the hearing, his reasons for failing to answer a subpoena did

not amount to good cause, the petition and order to show cause sufficiently provided the witness with notice that he was accused of criminal contempt, and he did not preserve his sufficiency-of-the-evidence claim. *Valley v. Pulaski County Circuit Court*, 2014 Ark. 112, 431 S.W.3d 916 (2014).

### **10-4-422. Records — Public inspection — Definitions.**

(a) The Legislative Auditor shall keep, or cause to be kept, a complete, accurate, and adequate set of fiscal transactions of Arkansas Legislative Audit.

(b) The Legislative Auditor shall also keep paper, digital, or electronic copies of all audit reports, examinations, investigations, and any other reports or releases issued by the Legislative Auditor.

(c)(1) All working papers, including communications, notes, memoranda, preliminary drafts of audit reports, and other data gathered in the preparation of audit reports by Arkansas Legislative Audit, are exempt from all provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq., and are not to be considered public documents for purposes of inspection or copying under the Freedom of Information Act of 1967, § 25-19-101 et seq., or any other law of the State of Arkansas, except as provided in this subsection.

(2) After any audit report has been presented to members of the Legislative Joint Auditing Committee, the audit report and copies of any documents contained in the working papers of Arkansas Legislative Audit shall be open to public inspection, except documents specifically exempted from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., unsubstantiated allegations obtained in complying with auditing standards or other professional guidelines regarding the detection of fraud, and documents which disclose auditing procedures and techniques as defined in subdivision (c)(3) of this section.

(3) As used in this subsection:

(A) “Audit program” means the instructions and guidelines formulated by Arkansas Legislative Audit to inform its accountants about the examination procedures to be followed in the course of examining records and accounts to verify their accuracy, including verifications that the examination procedures have been followed; and

(B) "Documents which disclose auditing procedures and techniques" includes:

(i) Internal control questionnaires consisting of the checklist of accounting and administrative procedures employed by Arkansas Legislative Audit in the course of performing an audit; and

(ii) An audit program.

**History.** Acts 2005, No. 2201, § 7;  
2015, No. 554, § 21.

#### **10-4-423. Seal.**

The Secretary of State shall procure an official seal for Arkansas Legislative Audit.

**History.** Acts 2005, No. 2201, § 7;  
2015, No. 554, § 22.

#### **10-4-424. Audit of information systems operations.**

(a) Arkansas Legislative Audit may conduct audits of all or any part of the information systems or operations of any entity of the state or political subdivision of the state.

(b)(1)(A) Charges incurred in the performance of information systems audits or audit-related tasks by Arkansas Legislative Audit shall be absorbed by the entity of the state or political subdivision of the state being audited.

(B) However, the use shall not interfere with or impede normal information systems operations.

(2) The information systems provider shall provide requested data or other information or services to Arkansas Legislative Audit within ten (10) days of the request, unless another date is agreed to by the Legislative Auditor.

(c) The Division of Information Systems, its successor agency, or other entities of the state or political subdivisions of the state that provide internet, network, or other computer services or information to an entity of the state or a political subdivision of the state shall provide access to all data, support, or other necessary information services to Arkansas Legislative Audit in connection with their functions at no cost to Arkansas Legislative Audit.

(d) In connection with any audit by Arkansas Legislative Audit, contractual providers of information systems or other computer-related services to entities of the state or political subdivisions of the state shall cooperate and provide requested information at no cost to Arkansas Legislative Audit.

(e) All contracts by entities of the state and political subdivisions of the state with vendors for information systems or other computer services shall contain a provision permitting Arkansas Legislative Audit access and authority to audit computer applications supplied by vendors.



**History.** Acts 2005, No. 2201, § 7; substituted “Division of Information Systems” for “Department of Information Systems” in (c).  
2015, No. 554, § 23; 2019, No. 910, § 6065.

**Amendments.** The 2019 amendment

#### **10-4-425. Format of private audit reports.**

(a) To provide for a consistent and understandable financial format, all financial audit reports prepared by certified public accountants in private practice or public accountants of entities of the state or political subdivisions of the state shall be in substantially the same form as reports prepared by the Legislative Auditor for a similar entity or subdivision.

(b)(1) The audit reports shall present the financial information and comments in a similar format as audit reports of the Legislative Auditor.

(2) The reports shall include coverage of all applicable laws that relate to the operation of the governmental unit, including coverage of purchasing, bonding, revenue, and expenditures with comments on any apparent violation of applicable state or local legislative acts, codes, rules, or regulations.

(c)(1) The Legislative Joint Auditing Committee shall develop a system that allows an auditor in private practice to present a proposed format for preparing a given audit report on one (1) of the named governmental units for the review of the Legislative Joint Auditing Committee.

(2) If the Legislative Joint Auditing Committee finds that the audit report format is similar to the audit reports prepared by the Legislative Auditor, then the Legislative Joint Auditing Committee shall approve the format of the audit on the named governmental units.

(3) If the private auditor’s format does not meet the approval of the Legislative Joint Auditing Committee, then the Legislative Joint Auditing Committee may authorize and direct that the audit shall be conducted by the staff of the Legislative Auditor.

**History.** Acts 2005, No. 2201, § 7; The 2021 amendment substituted 2019, No. 315, § 752; 2021, No. 591, § 8. “similar entity or subdivision” for “similar governmental entity” in (a).

**Amendments.** The 2019 amendment inserted “rules” in (b)(2).

#### **10-4-426. Continuing professional education courses.**

(a) In addition to contracting with private entities, Arkansas Legislative Audit may contract and pay entities of the state or political subdivisions of the state or any of their part-time or full-time employees for services rendered or for materials, supplies, or other expenses incurred in conducting continuing professional education courses for the staff of Arkansas Legislative Audit.

(b) Any funds received by public employees under this section shall be considered supplemental to their regular salaried positions and shall not be subject to the restrictions of § 6-63-307, § 19-4-1604, or other

statutory salary limitations regarding line item maximums or grades and steps.

(c) This section applies whether the public employee is paid directly or indirectly by an entity of the state or a political subdivision of the state.

**History.** Acts 2005, No. 2201, § 7;  
2015, No. 554, § 24.

#### **10-4-427. Claims against sureties.**

(a) With the approval of the Legislative Joint Auditing Committee, the Legislative Auditor shall give notice and make proof of loss to and demand payment of the surety on any bond covering an official or employee in which the audit report of the records of that official or employee reflects any shortage or other liability for which that official or employee and his or her surety may in any way be liable.

(b)(1) Within a reasonable time after the Legislative Auditor has given notice and made proof of loss and demand for payment as stated in subsection (a) of this section, the surety shall make payment of the amounts found to be due in the name of the appropriate entity and forward the payment to the entity.

(2) Upon receipt of payment from the surety, the entity shall credit the amounts received to the accounts entitled to the funds.

(c) The requirements of the self-insured fidelity bond program, § 21-2-701 et seq., shall apply to those officials or employees covered by the program, including, but not limited to, the provision for timing of coverage determinations by the Governmental Bonding Board under § 21-2-709.

**History.** Acts 2005, No. 2201, § 7;  
2017, No. 391, § 1.

**Amendments.** The 2017 amendment substituted "entity" for "Legislative Auditor" at the end of (b)(1); and substituted "Upon receipt of payment from the surety,

the entity shall" for "The Legislative Auditor shall transmit the payments received to the treasurers of the respective local taxing units with instructions to" in (b)(2).

#### **10-4-428. Employment of outside legal counsel.**

(a) Arkansas Legislative Audit may employ outside legal counsel as deemed necessary by the Legislative Auditor after receiving prior approval of the executive committee of the Legislative Joint Auditing Committee.

(b) If the executive committee of the Legislative Joint Auditing Committee approves the employment of outside legal counsel by Arkansas Legislative Audit, no additional approval is required.

**History.** Acts 2017, No. 736, § 6.



**10-4-429. Report of security incident — Definitions.**

(a) As used in this section:

(1) “Public entity” means an entity of the state, political subdivision of the state, or school; and

(2) “Security incident” means any compromise of the security, confidentiality, or integrity of an information system maintained by a public entity, a contractual provider of an information system that contracts with a public entity, or other computer-related services of a public entity, that is caused by any unauthorized:

(A) Access to an information system of a public entity;

(B) Destruction of an information system of a public entity or the data of an information system of a public entity; or

(C) Acquisition of data from an information system of a public entity.

(b)(1) A public entity that experiences a security incident shall disclose, in writing, an initial report of the known facts of the security incident to the Legislative Auditor within five (5) business days after learning of the security incident.

(2) A public entity shall provide regular updates of the security incident to the Legislative Auditor until the investigation of the security incident is closed.

(c) The Legislative Auditor shall:

(1) Maintain a list of all security incidents reported by a public entity; and

(2) Annually on or before December 15, report the information required by subdivision (c)(1) of this section to the Legislative Council, Legislative Joint Auditing Committee, and Joint Committee on Advanced Communications and Information Technology.

(d) If the Legislative Auditor believes the security incident significantly compromises citizens’ data, creates a significant security concern, or involves significant theft, then the Legislative Auditor shall notify:

(1) The Governor;

(2) The President Pro Tempore of the Senate;

(3) The Speaker of the House of Representatives;

(4) The House and Senate cochair of the Legislative Council;

(5) The cochair and the co-vice chairs of the Legislative Joint Auditing Committee; and

(6) The cochair of the Joint Committee on Advanced Communications and Information Technology.

(e) A report, update, notification, or list created or maintained under this section is exempt as a security function under § 25-19-105(b)(11).

**History.** Acts 2021, No. 260, § 1.

**CHAPTER 6****EMERGENCY INTERIM LEGISLATIVE SUCCESSION  
ACT****[Repealed.]****SECTION.****10-6-101 — 10-6-115. [Repealed.]****10-6-101 — 10-6-115. [Repealed.]**

**Publisher's Notes.** This chapter was repealed by Acts 2013, No. 1465, § 7. The chapter was derived from the following sources:

10-6-101. Acts 1961, No. 486, § 1;  
A.S.A. 1947, § 4-118.  
10-6-102. Acts 1961, No. 486, § 2;  
A.S.A. 1947, § 4-119.  
10-6-103. Acts 1961, No. 486, § 3;  
A.S.A. 1947, § 4-120.  
10-6-104. Acts 1961, No. 486, § 4;  
A.S.A. 1947, § 4-121.  
10-6-105. Acts 1961, No. 486, § 5;  
A.S.A. 1947, § 4-122.  
10-6-106. Acts 1961, No. 486, § 6;  
A.S.A. 1947, § 4-123.  
10-6-107. Acts 1961, No. 486, § 7;

A.S.A. 1947, § 4-124; Acts 1999, No. 646, § 2.

10-6-108. Acts 1961, No. 486, § 8;  
A.S.A. 1947, § 4-125.

10-6-109. Acts 1961, No. 486, § 9;  
A.S.A. 1947, § 4-126.

10-6-110. Acts 1961, No. 486, § 11;  
A.S.A. 1947, § 4-128.

10-6-111. Acts 1961, No. 486, § 10;  
A.S.A. 1947, § 4-127.

10-6-112. Acts 1961, No. 486, § 12;  
A.S.A. 1947, § 4-129.

10-6-113. Acts 1961, No. 486, § 14;  
A.S.A. 1947, § 4-131.

10-6-114. Acts 1961, No. 486, § 13;  
A.S.A. 1947, § 4-130.

10-6-115. Acts 1961, No. 486, § 15;  
A.S.A. 1947, § 4-132.



**TITLE 11**  
**LABOR AND INDUSTRIAL RELATIONS**  
(CHAPTERS 8-15 IN VOLUME 7B)

CHAPTER.

1. GENERAL PROVISIONS.
2. DIVISION OF LABOR.
3. LABOR RELATIONS AND PRACTICES.
4. WAGE AND HOUR REGULATION GENERALLY.
5. WORKING CONDITIONS GENERALLY.
6. CHILD LABOR.
7. REGULATION OF MINES.

**CHAPTER 1**  
**GENERAL PROVISIONS**

SUBCHAPTER.

1. [RESERVED.]
2. EMPOWER INDEPENDENT CONTRACTORS ACT OF 2019.

**SUBCHAPTER 1 — [RESERVED.]**

**SUBCHAPTER 2 — EMPOWER INDEPENDENT CONTRACTORS ACT OF 2019**

SECTION.

- 11-1-201. Title.  
11-1-202. Purpose.  
11-1-203. Definition.

SECTION.

- 11-1-204. Determination of employment  
status.

**11-1-201. Title.**

This subchapter shall be known and may be cited as the “Empower Independent Contractors Act of 2019”.

**History.** Acts 2019, No. 1055, § 1.

**11-1-202. Purpose.**

The purpose of this subchapter is to help employers create jobs, help individuals return to work and no longer need public assistance, and grow the economy.

**History.** Acts 2019, No. 1055, § 1.

**11-1-203. Definition.**

As used in this title, “employment status” means the status of an individual as an employee or independent contractor for employment

purposes, including without limitation wages, taxation, and workers' compensation issues.

**History.** Acts 2019, No. 1055, § 1.

### **11-1-204. Determination of employment status.**

For purposes of this title, an employer or agency charged with determining the employment status of an individual shall use the twenty-factor test enumerated by the Internal Revenue Service in Rev. Rul. 87-41, 1987-1 C.B. 296, in making its determination and shall consider whether:

(1) A person for whom a service is performed has the right to require compliance with instructions, including without limitation when, where, and how a worker is to work;

(2) A worker is required to receive training, including without limitation through:

(A) Working with an experienced employee;

(B) Corresponding with the person for whom a service is performed;

(C) Attending meetings; or

(D) Other training methods;

(3) A worker's services are integrated into the business operation of the person for whom a service is performed and are provided in a way that shows the worker's services are subject to the direction and control of the person for whom a service is performed;

(4) A worker's services are required to be performed personally, indicating an interest in the methods used and the results;

(5) A person for whom a service is performed hires, supervises, or pays assistants;

(6) A continuing relationship exists between a worker performing services and a person for whom a service is performed;

(7) A worker performing a service has hours set by the person for whom a service is performed;

(8) A worker is required to devote substantially full time to the business of the person for whom a service is performed, indicating the person for whom a service is performed has control over the amount of time the worker spends working and by implication restricts the worker from obtaining other gainful work;

(9)(A) The work is performed on the premises of the person for whom a service is performed, or the person for whom a service is performed has control over where the work takes place.

(B) A person for whom a service is performed has control over where the work takes place if the person has the right to:

(i) Compel the worker to travel a designated route;

(ii) Compel the worker to canvass a territory within a certain time;

or

(iii) Require that the work be done at a specific place, especially if the work could be performed elsewhere;



(10) A worker is required to perform services in the order or sequence set by the person for whom a service is performed or the person for whom a service is performed retains the right to set the order or sequence;

(11) A worker is required to submit regular oral or written reports to the person for whom a service is performed;

(12) A worker is paid by the hour, week, or month except when he or she is paid by the hour, week, or month only as a convenient way of paying a lump sum agreed upon as the cost of a job;

(13) A person for whom a service is performed pays the worker's business or traveling expenses;

(14) A person for whom a service is performed provides significant tools and materials to the worker performing services;

(15) A worker invests in the facilities used in performing the services;

(16) A worker realizes a profit or suffers a loss as a result of the services performed that is in addition to the profit or loss ordinarily realized by an employee;

(17) A worker performs more than de minimis services for more than one (1) person or firm at the same time, unless the persons or firms are part of the same service arrangement;

(18) A worker makes his or her services available to the general public on a regular and consistent basis;

(19) A person for whom a service is performed retains the right to discharge the worker; and

(20) A worker has the right to terminate the relationship with the person for whom a service is performed at any time he or she wishes without incurring liability.

**History.** Acts 2019, No. 1055, § 1.

## CHAPTER 2

### DIVISION OF LABOR

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS MEDIATION AND CONCILIATION SERVICE NONDISCLOSURE ACT.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

- 11-2-101. Purpose.  
11-2-104. Penalties.  
11-2-105. Enforcement.  
11-2-106. [Repealed.]  
11-2-107. Appointment of director.  
11-2-108. Director — Powers and duties generally.

##### SECTION.

- 11-2-109. Director — Intervention in and arbitration of labor disputes.  
11-2-110. Director — Rulemaking authority.  
11-2-111. Office — Employees — Location of hearings.

## SECTION.

- 11-2-112. Promulgation of rules.
- 11-2-113. Variation of rule due to difficulties or hardship.
- 11-2-114. Judicial review of rules.
- 11-2-115. Employer records — Inspection.
- 11-2-116. Entry and inspection of workplace, etc.
- 11-2-117. Safe place of employment — Duties of employer and director.
- 11-2-118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.
- 11-2-119. False statements made under oath deemed perjury.

## SECTION.

- 11-2-120. Annual report.
- 11-2-121. Agreements with government agencies.
- 11-2-122. Disclosure to employees — Health benefits available.
- 11-2-123. Employment training and placement programs for ex-offenders.
- 11-2-124. Social media accounts of current and prospective employees — Definitions.
- 11-2-125. Relationship between franchisee and franchisor — Definitions.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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### 11-2-101. Purpose.

The purpose of the Division of Labor shall be to foster, promote, and develop the welfare of the wage earners of Arkansas, to improve their working conditions, and to advance their opportunities for profitable employment.

**History.** Acts 1937, No. 161, § 2; Pope’s Dig., § 8498; A.S.A. 1947, § 81-102; Acts 2019, No. 910, § 5279.

**Amendments.** The 2019 amendment substituted “Division of Labor” for “Department of Labor”.

### 11-2-104. Penalties.

(a) Any employer or owner who violates or fails or refuses to comply with any provision of this subchapter, any lawful order of the Director of the Division of Labor, or any judgment or decree made by any court in connection with the provisions of this subchapter for which no penalty has been otherwise provided shall be guilty of a misdemeanor.

(b) Upon conviction, the employer or owner shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100), or



shall be imprisoned for a period not exceeding six (6) months, or both fined and imprisoned for each offense.

(c) Each day the violation, omission, failure, or refusal continues shall be deemed a separate offense.

**History.** Acts 1937, No. 161, § 21; substituted "Director of the Division of Pope's Dig., § 8517; A.S.A. 1947, § 81-120; Acts 2019, No. 910, § 5280. Labor" for "Director of the Department of Labor" in (a).

**Amendments.** The 2019 amendment

### 11-2-105. Enforcement.

(a)(1) It shall be the duty of the Attorney General and the several prosecuting attorneys, upon request of the Director of the Division of Labor or any of his or her authorized representatives, to prosecute any violation of the law that is the duty of the director to enforce.

(2) The director may, upon his or her own motion, bring all necessary suits and institute such prosecutions as may be necessary to properly enforce this subchapter, and he or she shall not be required to give bond for cost or make appeal bonds.

(b)(1) In lieu of the penalties provided in § 11-2-104, any penalty except imprisonment may be recovered in a civil action in the name of the State of Arkansas.

(2) The civil action shall be entitled to an expeditious hearing and shall receive precedence over all other matters except older matters of the same nature.

(3) Any sums forfeited under the provisions of this section shall be deposited with the Treasurer of State in the same manner as provided by law for other moneys of the state.

**History.** Acts 1937, No. 161, §§ 20, 21; Pope's Dig., §§ 8516, 8517; A.S.A. 1947, §§ 81-119, 81-120; Acts 2019, No. 910, § 5281.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a)(1).

### 11-2-106. [Repealed.]

**Publisher's Notes.** This section, concerning creation of the Department of Labor, was repealed by Acts 2019, No. 910, § 5282, effective July 1, 2019. The section

was derived from Acts 1937, No. 161, §§ 2, 5; Pope's Dig., §§ 8498, 8501; Acts 1941, No. 112, § 1; A.S.A. 1947, §§ 81-102, 81-105.

### 11-2-107. Appointment of director.

(a) The Governor shall appoint the Director of the Division of Labor, subject to confirmation by the Senate.

(b)(1) The director shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Labor and Licensing.

(3) The director shall be a person who, on account of his or her previous vocation, employment, or affiliation can be classed as a representative of employees.

(4) All appointments made while the Senate is not in regular session shall be effective ad interim.

(c) The director shall give a bond in the sum of two thousand dollars (\$2,000) with sureties to be approved by the Secretary of the Department of Labor and Licensing, conditioned for the faithful discharge of the duties of his or her office.

(d) The director shall also take the oath of office prescribed by the Constitution.

(e) The director shall provide himself or herself with a suitable seal, which shall be judicially noticed.

**History.** Acts 1937, No. 161, §§ 3, 18; Pope's Dig., §§ 8499, 8514; A.S.A. 1947, §§ 81-103, 81-117; Acts 1989, No. 927, § 1; 2009, No. 727, § 1; 2019, No. 910, § 5283.

**Amendments.** The 2019 amendment substituted "Director of the Division of

Labor" for "Director of the Department of Labor" in (a); inserted (b)(2); redesignated former (b)(2) as (b)(3); deleted former (b)(3); and substituted "Secretary of the Department of Labor and Licensing" for "Governor" in (c).

### 11-2-108. Director — Powers and duties generally.

In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the Division of Labor shall have the power, jurisdiction, and authority:

(1) To enforce all labor laws in the State of Arkansas, the enforcement of which is not otherwise specifically provided for;

(2) To administer and enforce all laws, rules, and regulations that are the duty of the Division of Labor to administer and enforce;

(3) To direct, except as otherwise provided, make, or cause to be made all necessary inspections to see that all laws and rules made pursuant thereto that the division has the duty, power, and authority to enforce are promptly and effectively carried out; and

(4) To make investigations, collect and compile statistical information, and report upon conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this subchapter and of the rules issued under this subchapter.

**History.** Acts 1937, No. 161, §§ 2, 7; Pope's Dig., §§ 8498, 8503; Acts 1951, No. 273, § 1; A.S.A. 1947, §§ 81-102, 81-107; Acts 2019, No. 910, § 5284.

**Amendments.** The 2019 amendment substituted "Director of the Division of

Labor" for "Director of the Department of Labor" in the introductory language; substituted "Division of Labor" for "Department of Labor" in (2); and substituted "division" for "department" in (3).

### 11-2-109. Director — Intervention in and arbitration of labor disputes.

(a) In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the Division of Labor shall have the power, jurisdiction, and authority:



(1)(A) To intervene or authorize his or her representative to intervene in any labor dispute in a strictly conciliatory or mediatory capacity whenever he or she is extended a written invitation to do so by either party to the controversy.

(B) However, the Division of Labor may proffer its services to both parties when a work stoppage is threatened and neither party requests intervention;

(2) To do all in his or her power to promote the voluntary arbitration of disputes between employers and employees and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations, and legal proceedings in matters of employment.

(b)(1) In pursuance of his or her duty, whenever both sides to any controversy agree to voluntary arbitration, the director may appoint temporary boards of arbitration, prescribe rules of procedure for the arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all things convenient and necessary to accomplish the purposes of this subchapter.

(2) Members of the boards of arbitration may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c)(1) The Secretary of the Department of Labor and Licensing may designate an employee of the division to act as chief mediator and may detail other employees or persons not in the division from time to time to act as his or her assistants for the purpose of executing these provisions.

(2) Employees of the division shall serve on temporary boards without extra compensation.

**History.** Acts 1937, No. 161, § 7; Pope's Dig., § 8503; Acts 1951, No. 273, § 1; A.S.A. 1947, § 81-107; Acts 1997, No. 250, § 57; 2019, No. 910, § 5285.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of

Labor" in the introductory language of (a); substituted "Division of Labor" for "Department of Labor" in (a)(1)(B); substituted "secretary" for "director" in (c)(1); and substituted "division" for "department" twice in (c)(1) and once in (c)(2).

### 11-2-110. Director — Rulemaking authority.

(a) In addition to such other powers and duties as may be conferred upon him or her by law, the Director of the Division of Labor shall have the power to make, modify, and repeal reasonable rules for the prevention of accidents or industrial or occupational diseases in every employment or place of employment and to make, modify, and repeal reasonable rules for the construction, repair, and maintenance of places of employment, places of public assembly, and public buildings which shall render them safe.

(b) The director shall have the power to make, modify, or repeal such rules, or changes in rules, as he or she may deem necessary to carry out the provisions of this subchapter.

(c) The director may appoint committees composed of employers, employees, and experts to suggest rules or changes therein.

(d) The rules of the director shall have the force and effect of law and shall be enforced by the director in the same manner as the provisions of this subchapter.

**History.** Acts 1937, No. 161, § 10; substituted "Director of the Division of Pope's Dig., § 8506; A.S.A. 1947, § 81- Labor" for "Director of the Department of 109; Acts 2019, No. 910, § 5286. Labor" in (a).

**Amendments.** The 2019 amendment

### **11-2-111. Office — Employees — Location of hearings.**

(a) The Secretary of the Department of Labor and Licensing is authorized to appoint a deputy director, a secretary, the heads of divisions, and such other employees as may be necessary. He or she is authorized to assign them to their duties and recommend to the General Assembly the salaries that are to be fixed by appropriation.

(b) The Division of Labor shall keep an office in Pulaski County and shall maintain such other office as shall meet the convenience of the division and the public.

(c) The members, employees, and agents of the division shall be entitled to receive from the state their necessary and actual expenses while traveling on the business of the division either within or without the State of Arkansas.

(d) The Secretary of the Department of Labor and Licensing and his or her authorized representatives may hold hearings at any place other than the Capitol when the convenience of the division and of the interested parties requires.

**History.** Acts 1937, No. 161, §§ 4, 5; Pope's Dig., §§ 8500, 8501; Acts 1941, No. 112, § 1; A.S.A. 1947, §§ 81-104, 81-105; Acts 1989, No. 927, § 2; 2013, No. 1151, § 1; 2019, No. 910, § 5287.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Labor and Licensing" for "Director of

the Department of Labor" in (a); substituted "Division of Labor" for "Department of Labor" in (b) and substituted "division" for "department" throughout (b), (c), and (d); substituted "Pulaski County" for "the City of Little Rock" in (b); and substituted "secretary" for "director" in (d).

### **11-2-112. Promulgation of rules.**

(a) Before any rule is adopted, amended, or repealed, there shall be a public hearing thereon, notice of which shall be published at least once and not less than ten (10) days prior to the public hearing in such newspaper as the Director of the Division of Labor may prescribe.

(b)(1) All rules and all amendments and repeals thereof shall, unless otherwise prescribed by the director, take effect thirty (30) days after the first publication thereof, and certified copies shall be filed in the office of the Secretary of State.

(2) Every rule adopted and every amendment or repeal shall be published in such manner as the director may determine, and the director shall deliver a copy to every person making application therefor. The director shall include the text of each rule or amendment



in an appendix to the annual report of the Division of Labor next following the adoption or amendment of the rule.

**History.** Acts 1937, No. 161, §§ 11, 12; Pope's Dig., §§ 8507, 8508; A.S.A. 1947, §§ 81-110, 81-111; Acts 2019, No. 910, § 5288.

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a); and substituted "Division of Labor" for "department" in the second sentence of (b)(2).

**Amendments.** The 2019 amendment

### 11-2-113. Variation of rule due to difficulties or hardship.

(a) If there shall be practical difficulties or unnecessary hardships in carrying out a rule of the Director of the Division of Labor, the director may, after public hearing, make a variation from such requirement if the spirit of the rule and law shall be observed.

(b) Any person affected by the rule, or his or her agent, may petition the director for a variation, stating the grounds therefor.

(c) The director shall fix a day for a hearing on the petition and give reasonable notice to the petitioner.

(d) A properly indexed record of all variations made shall be kept in the office of the Division of Labor and open to public inspection.

**History.** Acts 1937, No. 161, § 13; Pope's Dig., § 8509; A.S.A. 1947, § 81-112; Acts 2019, No. 910, § 5289.

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

**Amendments.** The 2019 amendment

### 11-2-114. Judicial review of rules.

(a)(1) Any person aggrieved by a rule of the Director of the Division of Labor made pursuant to § 11-2-112 may commence an action in the Pulaski County Circuit Court against the Division of Labor, as defendant, to set aside the rule on the ground that it is unlawful or unreasonable.

(2) The action and the pleadings shall be governed by the laws and rules of practice applicable to other civil actions in the court.

(3) Any action brought under this section shall be commenced within thirty (30) days from the effective date of the rule.

(b)(1) All rules of the director shall be prima facie lawful and reasonable and shall not be held invalid because of any technical defect, provided there is substantial compliance with the provisions of this subchapter.

(2) All rules shall be conclusively presumed to be lawful and reasonable if the action is not commenced within thirty (30) days from the date of the rule as provided in this section.

**History.** Acts 1937, No. 161, § 19; Pope's Dig., § 8515; A.S.A. 1947, § 81-118; Acts 2019, No. 910, § 5290.

in (a)(1), substituted "Director of the Division of Labor" for "Director of the Department of Labor", and substituted "Division of Labor" for "Department of Labor".

**Amendments.** The 2019 amendment,

**11-2-115. Employer records — Inspection.**

(a)(1) Every employer or owner shall furnish to the Director of the Division of Labor any information that the director is authorized to require and shall make true and specific answers to all questions, whether submitted orally or in writing, authorized to be put to the employer or owner.

(2)(A) Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by the employer, of the daily and weekly hours worked by each person, and of the wages paid each pay period to each person.

(B) The records shall be kept on file for at least one (1) year after the date of the record.

(C) No employer shall make or cause to be made any false entries in any record.

(b) The director and any authorized representative of the Division of Labor shall, for the purpose of examination, have access to and the right to copy from any book, account, record, payroll, paper, or documents relating to the employment of workers.

**History.** Acts 1937, No. 161, §§ 14, 15; substituted “Director of the Division of Pope’s Dig., §§ 8510, 8511; A.S.A. 1947, §§ 81-113, 81-114; Acts 2019, No. 910, §§ 5291, 5292. Labor” for “Director of the Department of Labor” in (a)(1); and substituted “Division of Labor” for “Department of Labor” in (b).

**Amendments.** The 2019 amendment

**11-2-116. Entry and inspection of workplace, etc.**

(a) The Director of the Division of Labor and his or her authorized representatives shall have the power and authority to enter any place of employment, place of public assembly, or public building for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state.

(b) No employer or owner shall refuse to admit the director or his or her authorized representatives to his or her place of employment, public building, or place of public assembly.

**History.** Acts 1937, No. 161, § 16; substituted “Director of the Division of Pope’s Dig., § 8512; A.S.A. 1947, § 81- Labor” for “Director of the Department of 115; Acts 2019, No. 910, § 5293. Labor” in (a).

**Amendments.** The 2019 amendment

**11-2-117. Safe place of employment — Duties of employer and director.**

(a) Every employer shall furnish employment that is safe for the employees therein and shall furnish and use safety devices and safeguards. The employer shall adopt and use methods and processes reasonably adequate to render such an employment and place of



employment safe and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of the employees.

(b) Every employer and every owner of a place of employment, place of public assembly, or public building, now or hereafter constructed, shall construct, repair, and maintain it so as to render it safe.

(c) If the Director of the Division of Labor or his or her authorized representative finds that any machine, tool, or equipment, or any part thereof, is in a dangerous condition, is not properly guarded, or is dangerously placed, he or she shall attach to the machine, tool, or equipment a notice warning all persons against its use and setting out in complete detail the conditions that render the machine, tool, or equipment unfit for service. The machine, tool, or equipment shall not be used until it is made safe, the required safeguards or safety appliances or devices as set forth in the certificate attached thereto have been fully corrected, and notice of the correction is sent to the Division of Labor by registered mail, accompanied by a certificate from a competent mechanic certifying correction of the defects.

**History.** Acts 1937, No. 161, § 9; Pope's Dig., § 8505; A.S.A. 1947, § 81-108; Acts 2019, No. 910, § 5294.

**Amendments.** The 2019 amendment, in (c), substituted "Director of the Division

of Labor" for "Director of the Department of Labor" in the first sentence, and substituted "Division of Labor" for "Department of Labor" in the second sentence.

## RESEARCH REFERENCES

**ALR.** Technological Feasibility as Factor Affecting Validity of, or Obligation of Compliance with, Standards Established Under Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.). 72 A.L.R. Fed. 2d 461.

Judicial Deference to Secretary of Labor's Interpretations of Occupational Safety and Health Act or Regulations Promulgated Thereunder. 23 A.L.R. Fed. 3d Art. 1 (2017).

### 11-2-118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.

(a) The Director of the Division of Labor and any officer of the Division of Labor designated by the director, in the performance of any duty or the execution of any power prescribed by law, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, and testimony.

(b) In case of failure of any person to comply with any subpoena lawfully issued or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or the judge thereof, upon application of the director or any officer or agent of the division, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued for the court or a refusal to testify therein.

**History.** Acts 1937, No. 161, § 17; Pope's Dig., § 8513; A.S.A. 1947, § 81-116; Acts 2003, No. 1473, § 21; 2019, No. 910, § 5295.

**Amendments.** The 2019 amendment, in (a), substituted "Director of the Divi-

sion of Labor" for "Director of the Department of Labor", and substituted "Division of Labor" for "Department of Labor"; and substituted "division" for "department" in (b).

### 11-2-119. False statements made under oath deemed perjury.

Any employer or owner who shall knowingly testify falsely, under oath, or shall knowingly make, give, or produce any false statements or false evidence, under oath, to the Director of the Division of Labor or his or her authorized representatives shall be deemed guilty of perjury.

**History.** Acts 1937, No. 161, § 21; Pope's Dig., § 8517; A.S.A. 1947, § 81-120; Acts 2019, No. 910, § 5296.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Labor" for "Director of the Department of Labor".

### 11-2-120. Annual report.

(a) The Director of the Division of Labor shall annually, on or before January 1, file with the Secretary of the Department of Labor and Licensing a report covering the activities of the Division of Labor, accompanied by recommendations with reference to such changes in the law, applying to and affecting industrial and labor conditions, as the director may deem advisable.

(b) The report of the director shall be printed and distributed in such manner as the secretary shall authorize.

**History.** Acts 1937, No. 161, § 22; Pope's Dig., § 8518; A.S.A. 1947, § 81-121; Acts 2019, No. 910, § 5297.

**Amendments.** The 2019 amendment, in (a), substituted "Director of the Division of Labor" for "Director of the Department of Labor", substituted "Secretary of

the Department of Labor and Licensing" for "Governor", and substituted "Division of Labor" for "Department of Labor"; and substituted "Secretary of the Department of Labor and Licensing" for "Governor" in (b).

### 11-2-121. Agreements with government agencies.

(a) The Director of the Division of Labor is authorized to enter into agreements with the United States Government and any and all other state governments for assistance and cooperation in enforcing and implementing state and federal laws and projects in fields related to the Division of Labor.

(b)(1) The division may accept payment or reimbursement for its services as provided by the acts of Congress or the legislature of any other state.

(2) All payments or funds received by the division under this section shall be deposited into the State Treasury, to be expended as provided by law.



**History.** Acts 1967, No. 414, § 1; A.S.A. 1947, § 81-124; Acts 2019, No. 910, § 5298.

**Amendments.** The 2019 amendment, in (a), substituted "Director of the Division of Labor" for "Director of the Department of Labor", and substituted "Division of Labor" for "Department of Labor"; and substituted "division" for "department" in (b)(1) and (b)(2).

### **11-2-122. Disclosure to employees — Health benefits available.**

(a) Any employer or owner who does make available any health benefits to employees, excluding workers' compensation, shall inform and notify the employees of the nature of those benefits as to those benefits being self-insured, fully insured, or Employee Retirement Income Security Act-qualified, and shall provide the necessary information to enable the employees to contact the authority regulating those health benefits.

(b) The notification shall be made at such time and in such manner as prescribed by rules promulgated by the Director of the Division of Labor.

**History.** Acts 1995, No. 1115, § 1; 2019, No. 315, § 753; 2019, No. 910, § 5299.

**Amendments.** The 2019 amendment by No. 315 substituted "rules" for "regulation" in (b).

The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b).

### **11-2-123. Employment training and placement programs for ex-offenders.**

(a) In order to help facilitate the restoration of an ex-offender's responsibility and self-sufficiency, the Division of Labor shall work in conjunction with other appropriate state agencies, the private sector, and labor organizations to promulgate rules for implementing placement and training programs for ex-offenders.

(b) Training and placement programs shall be intensive and focus on in-demand vocations and professions, including without limitation:

- (1) Professional careers and vocations;
- (2) Service careers and vocations;
- (3) Information and computer technology;
- (4) Medical technology; and
- (5) Office administration.

(c) A training program created and administered under this section shall incorporate a "Certificate of Completion" to be awarded to any person who completes a training program under this section, which shall signify that the person is competent to enter the workforce as an employee satisfactorily trained in a particular vocation or profession or as an employee prepared for on-the-job training.

**History.** Acts 2011, No. 1151, § 2; 2019, No. 910, § 5300.

**Amendments.** The 2019 amendment

substituted "Division of Labor" for "Department of Labor" in (a).

**11-2-124. Social media accounts of current and prospective employees — Definitions.**

(a) As used in this section:

(1) "Employee" means an individual who provides services or labor for wages or other remuneration for an employer;

(2) "Employer" means a person or entity engaged in business, an industry, a profession, a trade, or other enterprise in the state or a unit of state or local government, including without limitation an agent, representative, or designee of the employer; and

(3)(A) "Social media account" means a personal account with an electronic medium or service where users may create, share, or view user-generated content, including without limitation:

(i) Videos;

(ii) Photographs;

(iii) Blogs;

(iv) Podcasts;

(v) Messages;

(vi) Emails; and

(vii) Website profiles or locations.

(B) "Social media account" does not include an account:

(i) Opened by an employee at the request of an employer;

(ii) Provided to an employee by an employer such as a company email account or other software program owned or operated exclusively by an employer;

(iii) Set up by an employee on behalf of an employer; or

(iv) Set up by an employee to impersonate an employer through the use of the employer's name, logos, or trademarks.

(C) "Social media account" includes without limitation an account established with Facebook, Twitter, LinkedIn, Myspace, or Instagram.

(b)(1) An employer shall not require, request, suggest, or cause a current or prospective employee to:

(A) Disclose his or her username and password to the current or prospective employee's social media account; or

(B) Change the privacy settings associated with his or her social media account.

(2) An employer shall not require a current or prospective employee to add another employee, supervisor, or administrator to the list or contacts associated with his or her social media account.

(3) If an employer inadvertently receives an employee's username, password, or other login information to the employee's social media account through the use of an electronic device provided to the employee by the employer or a program that monitors an employer's network, the employer is not liable for having the information but may not use the information to gain access to an employee's social media account.

(c) An employer shall not:



(1) Take action against or threaten to discharge, discipline, or otherwise penalize a current employee for exercising his or her rights under subsection (b) of this section; or

(2) Fail or refuse to hire a prospective employee for exercising his or her rights under subsection (b) of this section.

(d) This section does not prohibit an employer from viewing information about a current or prospective employee that is publicly available on the internet.

(e) Nothing in this section:

(1) Prevents an employer from complying with the requirements of federal, state, or local laws, rules, or regulations or the rules or regulations of self-regulatory organizations; or

(2)(A) Affects an employer's existing rights or obligations to request an employee to disclose his or her username and password for the purpose of accessing a social media account if the employee's social media account activity is reasonably believed to be relevant to a formal investigation or related proceeding by the employer of allegations of an employee's violation of federal, state, or local laws or regulations or of the employer's written policies.

(B) If an employer exercises its rights under subdivision (e)(2)(A) of this section, the employee's username and password shall only be used for the purpose of the formal investigation or a related proceeding.

**History.** Acts 2013, No. 1480, § 1; 2017, No. 792, § 1.

**Amendments.** The 2017 amendment deleted former (b)(1)(B) and redesignated

former (b)(1)(C) as present (b)(1)(B); inserted present (b)(2); and redesignated former (b)(2) as (b)(3).

## RESEARCH REFERENCES

**Ark. L. Rev.** Bethany N. Whitfield, Comment: Social Media @ Work: #poli-cynEEDED, 66 Ark. L. Rev. 843 (2013).

## 11-2-125. Relationship between franchisee and franchisor — Definitions.

(a) As used in this section:

(1) "Franchise" means a continuing commercial relationship or arrangement in which the terms of the offer or contract specify or the franchise seller promises or represents, orally or in writing, that:

(A) The franchisee shall obtain the right to operate a business that is identified or associated with the franchisor's trademark, or to offer, sell, or distribute goods, services, or commodities that are identified or associated with the franchisor's trademark;

(B) The franchisor will exert or has authority to exert a significant degree of control over the franchisee's method of operation, or provide significant assistance in the franchisee's method of operation; and

- (C) As a condition of obtaining or commencing operation of the franchise, the franchisee makes a required payment or commits to make a required payment to the franchisor or its affiliate;
- (2) “Franchisee” means a person that is granted a franchise;
- (3) “Franchisor” means a person that grants a franchise and participates in the franchise relationship; and
- (4) “Subfranchisor” means a person that functions as a franchisor by engaging in both presale activities and postsale performance.
- (b) Notwithstanding a voluntary agreement entered into between the United States Department of Labor and a franchisee, neither a franchisee nor a franchisee’s employee shall be deemed to be an employee of the franchisor or subfranchisor.

**History.** Acts 2017, No. 966, § 1.

## SUBCHAPTER 2 — ARKANSAS MEDIATION AND CONCILIATION SERVICE NONDISCLOSURE ACT

### SECTION.

11-2-203. Definition.

11-2-204. Records and information confidential.

### SECTION.

11-2-205. Compliance with subpoenas.

11-2-206. Judicial review.

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 11-2-203. Definition.

For the purpose of this subchapter, unless the context otherwise requires, the term “person” means one (1) or more individuals, joint ventures, partnerships, associations, corporations, states, municipalities, business trusts, legal representatives, or any organized group of employees.

**History.** Acts 1979, No. 750, § 3; A.S.A. 1947, § 81-127; Acts 2019, No. 910, § 5301.

**Amendments.** The 2019 amendment substituted “Definition” for “Definitions”

in the section heading; and rewrote the section by deleting the defined terms “director”, “service”, and “state”; and removing the designation (2) from the remaining definition.



### 11-2-204. Records and information confidential.

(a) All files, reports, letters, memoranda, minutes, documents, or other papers in the official custody of the Arkansas Mediation and Conciliation Service or any of its employees, or any other information, whether written or not, obtained in the course of any employee's official duties, relating to or acquired in its or their official activities under the labor laws of the state or the rules lawfully promulgated by the Director of the Division of Labor, are confidential.

(b) No confidential records or information shall be disclosed to any unauthorized person or be taken or withdrawn, copied, or removed from the custody of the service or its employees or former employees by any person or by any agent or representative of the person without the prior written consent of the representatives of both parties to the dispute involved.

(c) All information and material prepared or received by officers or employees shall be held in strictest confidence.

(d) Papers, reports, and copies thereof pertaining to or a part of dispute case files are not personal property but are the property of the state.

(e) Officers or employees terminating their connection with the service shall not be allowed to either keep or obtain copies of dispute case material or other official papers. Furthermore, all information, whether written or not, obtained in the course of their official duties must, after termination of their connection with the service, be treated by former employees with the same confidentiality as if they were still connected with the service.

**History.** Acts 1979, No. 750, §§ 4, 7; A.S.A. 1947, §§ 81-128, 81-131; 2019, No. 315, § 754; 2019, No. 910, § 5302.

**Amendments.** The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a).

The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

### 11-2-205. Compliance with subpoenas.

(a) No officer, employee, former employee, or other person officially connected or formerly officially connected to the Arkansas Mediation and Conciliation Service shall produce or present any confidential records of the service or testify in behalf of any party to any cause pending in any arbitration or other proceedings or court or before any board, commission, committee, tribunal, investigatory body, or administrative agency of the United States or of any state, territory, the District of Columbia, or the state or any municipality or political subdivision thereof with respect to facts or other matters coming to his or her knowledge in his or her official capacity, whether in answer to an order, subpoena duces tecum, or otherwise, without the prior written consent of the representatives of both parties to the dispute.

(b)(1) Whenever any subpoena or subpoena duces tecum calling for confidential records or testimony as described in subsection (a) of this section has been served upon any officer, employee, or other person, he or she will appear in answer thereto and, unless otherwise expressly agreed to by the representatives of both parties to the dispute, respectfully decline, by reason of this section, to produce or present the confidential records or to give testimony.

(2) Immediately upon receipt of the subpoena, the mediator or former mediator or employee should contact the Director of the Division of Labor, who shall immediately notify the staff attorneys of the Department of Labor and Licensing of the state to ensure that the procedures set forth in this subchapter will be followed. The director then shall instruct the staff attorneys to appear in behalf of the mediator and protect the service from any disclosure that violates the provisions contained in this subchapter.

(c) In the event that the court insists that the mediator testify or produce documents, the staff attorneys of the department shall be further instructed to take immediate steps to procure the release of the mediator pending an appeal from the court's decision.

**History.** Acts 1979, No. 750, § 5; A.S.A. 1947, § 81-129; Acts 2019, No. 910, § 5303.

**Amendments.** The 2019 amendment, in the first sentence of (b)(2), substituted

"Director of the Division of Labor" for "Director of the Department of Labor", and substituted "Department of Labor and Licensing" for "Department of Labor".

### 11-2-206. Judicial review.

(a)(1) The mediator or the Director of the Division of Labor on his or her behalf or the Attorney General on his or her behalf may obtain a review of the order requiring him or her to testify.

(2) The review may be obtained by filing in the Supreme Court, within thirty (30) days following the issuance of the order, a written petition praying that the order be modified or set aside.

(3) A copy of the petition shall be forthwith transmitted by the Clerk of the Supreme Court to the clerk of the court issuing the order to testify or to produce documents and to the other parties, and thereupon that clerk shall file in the Supreme Court the record in the proceedings.

(b)(1) Upon filing, the Supreme Court shall have jurisdiction of the proceeding and of the question determined therein.

(2) The Supreme Court shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in the record a decree affirming, modifying, or setting aside, in whole or in part, the order of the court issuing its order to the mediator to testify or to produce and enforcing the order to the extent that it is affirmed or modified.



**History.** Acts 1979, No. 750, § 6; A.S.A. 1947, § 81-130; Acts 2019, No. 910, § 5304. substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a)(1).

**Amendments.** The 2019 amendment

## CHAPTER 3

### LABOR RELATIONS AND PRACTICES

SUBCHAPTER.  
 2. HIRING PRACTICES.  
 4. LABOR DISPUTES.

#### SUBCHAPTER 2 — HIRING PRACTICES

<p>SECTION.                  11-3-203. Medical examination as condition for employment.                  11-3-204. Providing references to prospective employers.</p>	<p>SECTION.                  11-3-206. Copies of employee background checks.</p>
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<p><b>Effective Dates.</b> Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and</p>	<p>classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”</p>
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#### 11-3-203. Medical examination as condition for employment.

(a)(1) It is unlawful for any person, partnership, association, or corporation, either for himself or herself or in a representative or fiduciary capacity, to require any employee or applicant for employment, as a condition of employment or continued employment, to submit to or take a physical, medical examination, or drug test unless the physical, medical examination, or drug test is provided at no cost to the employee or applicant for employment and unless a true and correct copy, either original or duplicate original, of the examiner’s report of the physical, medical examination, or drug test is furnished free of charge to the applicant or employee upon a written request of the applicant or employee.

(2) It shall further be unlawful for any person, partnership, association, or corporation to require any employee or applicant for employ-

ment to pay, either directly or indirectly, any part of the cost of the physical, medical examination, drug test, report, or copy of the report.

(3) Notwithstanding subdivision (a)(1) of this section, if an employee tests positive for an illegal drug as defined by rule of the Division of Labor, the employer and employee may agree in writing who will bear the cost of future drug tests or screens required as a condition of continued employment.

(b) Each and every violation of any provision of subsection (a) of this section shall constitute a misdemeanor, punishable by a fine in any amount not exceeding one hundred dollars (\$100).

(c) The Director of the Division of Labor shall administer and enforce this section, including without limitation, by:

(1) Adopting administrative rules; and

(2) Demanding payment and seeking recovery in a court of competent jurisdiction for charges, fees, wage deductions, or other payments made by employees as a result of an employer's violation of this section.

(d) This section does not change the definition of "medical examination" under any other state or federal statute.

**History.** Acts 1951, No. 171, §§ 1, 2; A.S.A. 1947, §§ 81-212, 81-213; Acts 2009, No. 453, §§ 1, 2; 2011, No. 980, § 1; 2019, No. 910, §§ 5305, 5306.

substituted "Division of Labor" for "Department of Labor" in (a)(3); and substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the introductory language of (c).

**Amendments.** The 2019 amendment

### 11-3-204. Providing references to prospective employers.

(a)(1) A current or former employer may disclose the following information about a current or former employee's employment history to a prospective employer of the current or former employee upon receipt of written consent from the current or former employee:

(A) Date and duration of employment;

(B) Current pay rate and wage history;

(C) Job description and duties;

(D) The last written performance evaluation prepared prior to the date of the request;

(E) Attendance information;

(F) Results of drug or alcohol tests administered within one (1) year prior to the request;

(G) Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;

(H) Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and

(I) Whether the employee is eligible for rehire.

(2) A school district or an officer, an agent, a servant, or an employee of a school district may disclose the information under subdivision (a)(1)(A)-(I) of this section and any additional information that may have some bearing upon the hiring of a current or former employee by a school district with or without the written consent of the current or former employee.



(3) The current or former employer disclosing the information is presumed to be acting in good faith and is immune from civil liability for the disclosure or any consequences of the disclosure unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed by the current or former employer was false, and the current or former employer had knowledge of its falsity or acted with malice or reckless disregard for the truth.

(4) The current or former employer disclosing the information may present the information in a format convenient to the current or former employer, including any electronic format.

(b)(1)(A) The consent required in subsection (a) of this section shall be on a separate form from the application form or, if included in the application form, shall be in bold letters and in larger typeface than the largest typeface in the text of the application form.

(B) The consent form shall state, at a minimum, language similar to the following:

"I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer)."

(2) The consent shall be signed and dated by the applicant.

(3)(A) The consent shall be valid only for the length of time that the application is considered active by the prospective employer.

(B) If the applicant is hired and remains with the new employer for longer than six (6) months, the consent shall be valid for no longer than six (6) months.

(C) If the applicant is hired and remains with the new employer for less than six (6) months, the consent shall be valid for six (6) months after the termination of employment.

(c) The provisions of this section shall also apply to any current or former employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section.

(d)(1) This section does not require any prospective employer to request employment history on a prospective employee and does not require any current or former employer to disclose employment history to any prospective employer.

(2) Except as specifically amended herein, the common law of this state remains unchanged as it relates to providing employment information on present and former employees.

(3) This section shall apply only to causes of action accruing on and after July 30, 1999.

(e) The immunity conferred by this section shall not apply when an employer or prospective employer discriminates or retaliates against an employee because the employee or the prospective employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by the public policy of this state.

**History.** Acts 1999, No. 1474, §§ 1-5; 2013, No. 1039, § 1; 2015, No. 949, § 1.

### **11-3-206. Copies of employee background checks.**

Upon the request of an employee or an applicant for employment, an employer that receives background check information regarding an employee or an applicant for employment shall provide a copy of the background check information to the employee or applicant for employment.

**History.** Acts 2017, No. 1028, § 1.

## **SUBCHAPTER 4 — LABOR DISPUTES**

### **SECTION.**

#### **11-3-401. Prevention of lawful employment prohibited.**

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

#### **11-3-401. Prevention of lawful employment prohibited.**

(a)(1) It shall be unlawful for any person by the use or threat of the use of force or violence to prevent or attempt to prevent any person from engaging in any lawful vocation within this state.

(2) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the Department of Corrections for not less than one (1) year nor more than two (2) years.

(b)(1) It shall be unlawful for any person acting in concert with one (1) or more other persons to assemble at or near any place where a labor dispute exists and by force or violence prevent or attempt to prevent any person from engaging in any lawful vocation.

(2) It shall also be unlawful for any person acting either by himself or herself or as a member of any group or organization or acting in concert with one (1) or more other persons to promote, encourage, or aid any such unlawful assemblage.



(3) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction thereof shall be punished by confinement in the Department of Corrections for not less than one (1) year nor more than two (2) years.

(c) The term “labor dispute” as used in this section shall include any controversy between an employer and two (2) or more employees concerning the terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment.

(d) The provisions of this section shall be cumulative of all other existing criminal laws of this state upon the same subject, and in the event of a conflict between existing articles and the provisions of this section, then and in that event, the provisions, offenses, and punishments set forth herein shall prevail over the existing articles.

**History.** Acts 1943, No. 193, §§ 1-4; substituted “Department of Corrections” A.S.A. 1947, §§ 81-206 — 81-209; Acts for “Department of Correction” in (a)(2) 2019, No. 910, §§ 694, 695. and (b)(3).

**Amendments.** The 2019 amendment

## CHAPTER 4

### WAGE AND HOUR REGULATION GENERALLY

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. MINIMUM WAGE LAW.
3. WAGE DISPUTES.
4. PAYMENT OF WAGES.
6. WAGE DISCRIMINATION.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

- 11-4-101. Assignment of wages.  
11-4-103. Employment status.

#### RESEARCH REFERENCES

**ALR.** Extraterritorial Application of State Wage and Hours Laws. 29 A.L.R.7th Art. 7 (2018).

#### 11-4-101. Assignment of wages.

No assignment or order for wages to be earned in the future to secure a loan of less than two hundred dollars (\$200) shall be valid against any employer of the person making the assignment or order until the

assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of it has been filed with the recorder of the county where the party making the assignment or order resides if a resident of this state or in the state where he or she is employed.

**History.** Acts 1911, No. 34, §§ 1, 2; C. & §§ 9119, 9120; A.S.A. 1947, §§ 81-316, M. Dig., §§ 7133, 7134; Pope's Dig., 81-317; Acts 2013, No. 1151, § 2.

### 11-4-103. Employment status.

For purposes of this chapter, employment status as an employee or independent contractor is determined by consideration of the twenty-factor test required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

**History.** Acts 2019, No. 1055, § 2.

## SUBCHAPTER 2 — MINIMUM WAGE LAW

### SECTION.

- 11-4-203. Definitions.
- 11-4-204. [Repealed.]
- 11-4-205. Right of collective bargaining not affected.
- 11-4-206. Penalties.
- 11-4-209. Director of the Division of Labor — Powers and duties.
- 11-4-210. Minimum wage.
- 11-4-211. Overtime.
- 11-4-212. Allowance for gratuities.
- 11-4-213. Allowance for furnishing board, lodging, apparel, etc.
- 11-4-214. Temporary special exemptions — Definition.
- 11-4-215. Learners, apprentices, and full-time students.

### SECTION.

- 11-4-216. Posting of law.
- 11-4-217. Records kept by employer.
- 11-4-218. Employee's remedies.
- 11-4-219. Judicial review.
- 11-4-220. Person entitled to file a claim.
- 11-4-221. Relief from liability under this subchapter for failure to pay minimum wage or overtime compensation.
- 11-4-222. Political subdivisions prohibited from requiring more than federal or state requirements from employers — Definitions.

**Effective Dates.** Acts 2013, No. 457, § 2: Mar. 21, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that organized camps and religious and nonprofit educational conference centers begin preparations for summer camps and conferences several months before the summer season begins; that organized camps and religious and nonprofit educational conference centers need clarity about staff wages early in the season-preparation and planning process; and that this act is immediately necessary because organized camps and religious and nonprofit educational conference cen-

ters will be harmed if they cannot immediately construct an accurate picture of the costs of operating during the forthcoming summer season. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."



Acts 2017, No. 914, § 5: Apr. 5, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that a recent 4 to 3 decision by the Supreme Court in *Gerber Products Company v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856, is at odds with the intent of the General Assembly because it misinterpreted state law, as evidenced by the legislative history surrounding the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., to require compensation for certain activities otherwise made noncompensable through the collective bargaining process; that the dissenting opinion in *Gerber Products Company v. Hewitt* better reflects the legislative intent of the General Assembly and identifies some of the dangers presented by the majority opinion, specifically that 'the floodgates will open to litigation at the enormous cost to businesses in Arkansas' and that the opinion 'undermines the collective-bargaining process and destroys any confidence employers and employees have in the enforceability of their agreements'; that certain activities have not been considered to be 'work' under state or federal law by employers and employees in the State of Arkansas who have conducted business in reliance upon that accepted understanding; that federal law embodied in the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., along with regulations and case law interpreting the same, has for many decades established that these certain activities are not compensable 'work'; that the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., existed for nearly fifty years without any interpretation that such activities should be compensable 'work' under any state law; and that this act is immediately necessary to legislatively overrule *Gerber Products Company v. Hewitt*, to clarify that the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., incorporates and has always relied upon 29 U.S.C. § 254, which is now embodied in § 11-4-221, to define whether certain activities consti-

tute compensable 'work' under state law, and to clarify the Minimum Wage Act of the State of Arkansas's deference to collective bargaining as embodied in § 11-4-205, so as to (1) protect the sanctity of collective bargaining agreements that have been negotiated and honored so as not to require compensation for activities like those described in 29 U.S.C. § 203(o) of the Fair Labor Standards Act of 1938, and (2) protect Arkansas employers from increased business costs that would place them in a competitive disadvantage by comparison to employers in other states and that would result in irreparable economic harm to such Arkansas employers and their employees. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

## RESEARCH REFERENCES

**ALR.** Extraterritorial Application of State Wage and Hours Laws. 29 A.L.R.7th Art. 7 (2018).

**11-4-201. Title.****CASE NOTES****ANALYSIS**

Costs.

Executive Exemption.

Summary Judgment Improper.

**Costs.**

Where employers prevailed in a suit under the Fair Labor Standards Act and the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., seeking unpaid overtime for employees classified as exempt, the employer, as a prevailing defendant, was not precluded from an award of costs because the FLSA was silent on this matter and no provision of the FLSA precluded such an award. *Garrison v. ConAgra Foods Packaged Foods, LLC*, 833 F.3d 881 (8th Cir. 2016).

**Executive Exemption.**

Certain team leaders were properly classified as exempt from overtime as working in an executive capacity under the Minimum Wage Act of the State of

Arkansas, § 11-4-201 et seq., because their recommendations regarding whether to discharge or retain probationary employees were given particular weight by management, particularly since they were each involved in at least one personnel decision. *Garrison v. ConAgra Foods Packaged Foods, LLC*, 833 F.3d 881 (8th Cir. 2016).

**Summary Judgment Improper.**

Trial court erred in granting the employee summary judgment on a claim that a shelter violated the Minimum Wage Act of the State of Arkansas where there were disputed issues of fact as to whether the employee had agreed to exclude sleep time from the computation of her paycheck or if she had agreed to a cap on her wages, and because of the conflicting testimony, it was impossible to discern that either party was entitled to judgment as a matter of law. *Grant Cnty. Unified Cmty. Res. Council, Inc. v. Pennington*, 2017 Ark. App. 116, 514 S.W.3d 509 (2017).

**11-4-203. Definitions.**

As used in this subchapter:

- (1) [Repealed.]
- (2) "Employ" means to suffer or to permit to work;
- (3) "Employee" means any individual employed by an employer but shall not include:

(A) Any individual employed in a bona fide executive, administrative, or professional capacity or as an outside commission-paid salesperson who customarily performs his or her services away from his or her employer's premises taking orders for goods or services;

(B) Any student performing services for any school, college, or university in which he or she is enrolled and is regularly attending classes;

(C) Any individual employed by the United States;

(D) Any individual engaged in the activities of any educational, charitable, religious, or nonprofit organization in which the employer-employee relationship does not in fact exist or in which the services are rendered to the organizations gratuitously;

(E) Any bona fide independent contractor;

(F) Any individual employed by an agricultural employer who did not use more than five hundred (500) man-days of agricultural labor in any calendar quarter of the preceding calendar year;



(G) The parent, spouse, child, or other member of an agricultural employer's immediate family;

(H) An individual who:

(i) Is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(ii) Commutes daily from his or her permanent residence to the farm on which he or she is so employed; and

(iii) Has been employed in agriculture less than thirteen (13) weeks during the preceding calendar year;

(I) A migrant who:

(i) Is sixteen (16) years of age or under and is employed as a hand-harvest laborer;

(ii) Is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(iii) Is employed on the same farm as his or her parents; and

(iv) Is paid the same piece-rate as employees over sixteen (16) years of age are paid on the same farm;

(J) Any employee principally engaged in the range production of livestock;

(K) Any employee employed in planting or tending trees, cruising, surveying, or felling timber or in preparing or transporting logs or other forestry products to the mill, processing plants, or railroad or other transportation terminal if the number of employees employed by his or her employer in the forestry or lumbering operations does not exceed eight (8);

(L) An employee employed by a nonprofit recreational or educational camp that does not operate for more than seven (7) months in any calendar year;

(M) A nonprofit child welfare agency employee who serves as a houseparent who is:

(i) Directly involved in caring for children who reside in residential facilities of the nonprofit child welfare agency and who are orphans, in foster care, abused, neglected, abandoned, homeless, in need of supervision, or otherwise in crisis situations that lead to out-of-home placements; and

(ii) Compensated at an annual rate of not less than thirteen thousand dollars (\$13,000) or compensated at an annual rate of not less than ten thousand dollars (\$10,000) if the employee resides in the residential facility and receives board and lodging at no cost;

(N) An employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation:

(i) Of less than four thousand (4,000); and

(ii) The major part of which is within the county in which the newspaper is published or counties contiguous to the county in which the newspaper is published;

(O) An employee employed on a casual basis in domestic service employment to provide:

(i) Babysitting services; or

(ii) Companionship services for individuals who are unable to care for themselves because of age or infirmity;

(P) An employee engaged in the delivery of newspapers to retail subscribers;

(Q) A home worker engaged in:

(i) Making wreaths composed principally of natural holly, pine, cedar, or other evergreens; and

(ii) Harvesting natural holly, pine, cedar, and other evergreens used in making such wreaths;

(R)(i) An individual employed by an establishment that is an organized camp or a religious or nonprofit educational conference center if:

(a) The organized camp or a religious or nonprofit educational conference center does not operate for more than seven (7) months in a calendar year; or

(b) During the preceding calendar year, the average receipts of the organized camp or a religious or nonprofit educational conference center for any six (6) months of the preceding calendar year were not more than thirty-three and one-third percent ( $33\frac{1}{3}\%$ ) of the average receipts of the organized camp or a religious or nonprofit educational conference center for the other six (6) months of the preceding calendar year.

(ii)(a) This subdivision (3)(R) is effective retroactively as of January 1, 2006.

(b) The retroactive effect of this subdivision (3)(R) does not impose liability on the Division of Labor or on an employee to repay damages, back wages, civil money penalties, or other moneys collected or paid by the division or received by an employee; or

(S) A direct seller as defined in the Internal Revenue Code of 1986, 26 U.S.C. § 3508(b)(2), as it existed on January 1, 2021;

(4)(A) "Employer" means any individual, partnership, association, corporation, business trust, the State of Arkansas, any political subdivision of the state, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(B) "Employer" shall not include any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee for any work week in which fewer than four (4) employees are employed;

(5) "Gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered;

(6) "Independent contractor" means any individual who contracts to perform certain work away from the premises of his or her employer, uses his or her own methods to accomplish the work, and is subject to the control of the employer only as to the result of his or her work;



(7) “Man-day” means any day during any portion of which an employee performs any agricultural labor. Any individual otherwise excluded as an employee under subdivision (3)(I) of this section shall be considered an employee in computing man-days of agricultural labor;

(8) “Occupation” means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed; and

(9) “Wage” means compensation due to an employee by reason of his or her employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by this subchapter or by rules of the Director of the Division of Labor under this subchapter.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 2; 1977, No. 345, § 1; 1979, No. 1095, § 1; 1983, No. 698, § 1; A.S.A. 1947, § 81-320; Acts 1989, No. 360, § 1; 1999, No. 1369, § 1; 2001, No. 1423, § 1; 2003, No. 212, § 1; Acts 2006 (1st Ex. Sess.), No. 15, § 1; 2006 (1st Ex. Sess.), No. 16, § 1; 2007, No. 545, § 1; 2013, No. 457, § 1; 2013, No. 1128, § 1; 2019, No. 315, § 755; 2019, No. 910, §§ 5307, 5308; 2021, No. 947, § 1.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (9).

The 2019 amendment by No. 910 repealed (1); and, in (3)(R)(ii)(b), substituted “Division of Labor” for “Department of Labor” and “division” for “department”.

The 2021 amendment added (3)(S).

## CASE NOTES

### Employ.

In a case relating to a failure to pay overtime wages, an employer’s mandatory donning and doffing activities clearly constituted “work” as contemplated by the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., despite the custom

and practice under a collective-bargaining agreement; moreover, an exception for unionized employees under federal law was not engrafted into the Arkansas act. *Gerber Prods. Co. v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856 (2016) (decision under prior law).

### 11-4-204. [Repealed.]

**A.C.R.C. Notes.** The repeal of this section by Acts 2019, No. 853, § 1, superseded the amendment of this section by Acts 2019, No. 315, § 756. The amendment by Act 315 substituted “rules” for “regulations” twice in subsection (a).

**Publisher’s Notes.** This section, concerning the liberal construction of laws in

this subchapter, was repealed by Acts 2019, No. 853, § 1, effective July 24, 2019. The section was derived from Acts 1968 (1st Ex. Sess.), No. 25, § 13; A.S.A. 1947, § 81-331; Acts 2006 (1st Ex. Sess.), No. 15, § 2; 2006 (1st Ex. Sess.), No. 16, § 2; 2019, No. 315, § 756.

### 11-4-205. Right of collective bargaining not affected.

(a) Except as provided in subsection (b) of this section, nothing in this subchapter, including the provisions of § 11-4-218(b), shall be deemed to interfere with, impede, or in any way diminish the right of employers and employees to bargain collectively through representa-

tives of their own choosing in order to establish wages or other conditions of work.

(b) Collective bargaining by public employees is prohibited under § 21-1-801 et seq.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 14; A.S.A. 1947, § 81-332; Acts 2017, No. 914, § 2; 2021, No. 612, § 1.

**A.C.R.C. Notes.** Acts 2017, No. 914, § 1, provided: "Purpose. The purpose of this act is to resolve questions that have arisen regarding:

"(1) The proper interpretation of § 11-4-205 and § 11-4-218(b); and

"(2) What activities constitute 'work' under the Minimum Wage Act of the State

of Arkansas, § 11-4-201 et seq., as interpreted by the Supreme Court in *Gerber Products Company v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856."

**Amendments.** The 2017 amendment inserted "including the provisions of § 11-4-218(b)".

The 2021 amendment added "Except as provided in subsection (b) of this section" in (a); and added (b).

### CASE NOTES

#### Application.

In a case relating to a failure to pay overtime wages, an employer's mandatory donning and doffing activities clearly constituted "work" as contemplated by the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., despite the custom

and practice under a collective-bargaining agreement; moreover, an exception for unionized employees under federal law was not engrafted into the Arkansas act. *Gerber Prods. Co. v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856 (2016) (decision under prior law).

#### 11-4-206. Penalties.

(a)(1) Any employer who willfully hinders or delays the Director of the Division of Labor or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter, willfully refuses to admit the director or his or her authorized representative to any place of employment, willfully fails to make, keep, and preserve any records as required under the provisions of this subchapter, willfully falsifies any such record, willfully refuses to make the record accessible to the director or his or her authorized representative upon demand, willfully refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this subchapter to the director or his or her authorized representative upon demand, willfully fails to post a summary of this subchapter or a copy of any applicable rules as required by § 11-4-216, pays or agrees to pay minimum wages at a rate less than the rate applicable under this subchapter, or otherwise willfully violates any provision of this subchapter or of any rule issued under this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(2) For the purposes of this subsection, each violation shall constitute a separate offense.

(b) Any employer who willfully discharges or in any other manner willfully discriminates against any employee because the employee has



made any complaint to his or her employer or to the director or his or her authorized representative that he or she has not been paid minimum wages in accordance with the provisions of this subchapter or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this subchapter or because the employee has testified or is about to testify in any such proceeding shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(c) For the purposes of this section, each day that the violation continues shall constitute a separate offense.

(d) The director shall determine the amount of the penalty and shall consider the appropriateness of the penalty to the size of the business and the gravity of the violation.

(e) The determination by the director shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail the person, firm, corporation, partnership, or association charged with the violation notifies the director in writing that he or she contests the proposed penalty. In the event that a penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) Upon a final administrative determination, the amount of the penalty may be recovered in a civil action brought by the director in a court of competent jurisdiction without paying costs or giving bond for costs.

(g) Sums collected under this section shall be paid into the Department of Labor and Licensing Special Fund.

(h) Assessment of a civil penalty by the director shall be made no later than three (3) years after the date of the occurrence of the violation.

(i) In addition to the civil penalty provided by this section, the director is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or any rule issued thereunder.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 11; A.S.A. 1947, § 81-329; Acts 2001, No. 1423, § 2; 2019, No. 315, § 757; 2019, No. 910, §§ 5309, 5310.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” and “rule” for “regulation” in (a)(1).

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a)(1); and substituted “Department of Labor and Licensing Special Fund” for “Department of Labor Special Fund” in (g).

#### **11-4-209. Director of the Division of Labor — Powers and duties.**

(a) For any occupation, the Director of the Division of Labor shall make and revise such administrative rules, including definitions of terms, as he or she may deem appropriate to carry out the purposes of

this subchapter or necessary to prevent the circumvention or evasion thereof and to safeguard the minimum wage rates established.

(b) The rules may include, but are not limited to, rules governing:

- (1) Outside or commission salespersons;
- (2) Learners and apprentices, their number, proportion, and length of service;
- (3) Part-time pay, bonuses, and fringe benefits;
- (4) Special pay for special or extra work;
- (5) Permitted charges to employees or allowances for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees;
- (6) Allowances for gratuities; and
- (7) Allowances for other special conditions or circumstances which may be usual in a particular employer-employee relationship.

(c) Rules shall be promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The director or his or her authorized representatives shall:

(1) Have authority to enter and inspect the place of business or employment of any employer in the state for the purpose of:

(A) Examining and inspecting any or all books, registers, payrolls, and other records of any employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any employees;

(B) Copying any or all of the books, registers, payrolls, and other records as he or she may deem necessary or appropriate; and

(C) Questioning employees for the purpose of ascertaining whether the provisions of this subchapter and rules issued under this subchapter have been and are being complied with;

(2) Have authority to require from the employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names, addresses, and such information pertaining to his or her employees as the director or his or her authorized representative may deem necessary or appropriate;

(3) Publish all rules promulgated pursuant to this subchapter; and

(4) Otherwise implement and enforce the provisions of this subchapter and the rules issued under this subchapter.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 4; A.S.A. 1947, § 81-322; Acts 2001, No. 1423, § 5; 2019, No. 315, §§ 758-760; 2019, No. 910, § 5311.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” throughout the section.

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

#### **11-4-210. Minimum wage.**

(a)(1) Beginning October 1, 2006, every employer shall pay each of his or her employees wages at the rate of not less than six dollars and



twenty-five cents (\$6.25) per hour except as otherwise provided in this subchapter.

(2) Beginning January 1, 2015, every employer shall pay each of his or her employees wages at the rate of not less than seven dollars and fifty cents (\$7.50) per hour, beginning January 1, 2016, the rate of not less than eight dollars (\$8.00) per hour, and beginning January 1, 2017, the rate of not less than eight dollars and fifty cents (\$8.50) per hour, except as otherwise provided in this subchapter.

(3) Beginning January 1, 2019, every employer shall pay each of his or her employees wages at the rate of not less than nine dollars and twenty-five cents (\$9.25) per hour, beginning January 1, 2020 the rate of not less than ten dollars (\$10.00) per hour and beginning January 1, 2021 the rate of not less than eleven dollars (\$11.00) per hour except as otherwise provided in this subchapter.

(b) With respect to any full-time student attending any accredited institution of education within this state and who is employed to work an amount not to exceed twenty (20) hours during weeks that school is in session or forty (40) hours during weeks when school is not in session, the rate of wage shall be equal to but not less than eighty-five percent (85%) of the minimum wage provided in this section.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1973, No. 13, § 1; 1975, No. 316, § 1; 1975 (Extended Sess., 1976), No. 1156, § 1; 1977, No. 345, §§ 2, 3; 1979, No. 996, § 3; 1981, No. 610, § 1; 1981, No. 667, § 1; 1983, No. 453, § 1; A.S.A. 1947, § 81-321; Acts 1987, No. 974, § 1; reen. Acts 1987, No. 987, § 1; Acts 1989, No. 360, § 2; 1989, No. 845, § 1; 1991, No. 544, § 1; 1993, No. 331, § 1; 1993, No. 568, § 1; 1997, No. 201, § 1; 2006 (1st Ex. Sess.), No. 15, § 3; 2006 (1st Ex. Sess.),

No. 16, § 3; Init. Meas. 2014, No. 1, § 1; Init. Meas. 2018, No. 5, § 1.

**Publisher's Notes.** The 2018 amendment was proposed by petition of the people and approved at the November 6, 2018 general election by a vote of 603,346 for and 278,164 against.

**Amendments.** The 2018 amendment added (a)(3).

**Effective Dates.** Init. Meas. 2018, No. 5, § 1: Dec. 6, 2018.

## 11-4-211. Overtime.

(a) Except as otherwise provided in this section and §§ 11-4-210 and 11-4-212, no employer shall employ any of his or her employees for a work week longer than forty (40) hours unless the employee receives compensation for his or her employment in excess of the hours above specified at a rate not less than one and one-half (1 ½) times the regular rate of pay at which he or she is employed.

(b) The provisions regarding the payment of wages at one and one-half (1 ½) times the regular rate of pay for overtime services shall not be applicable with respect to agricultural employees.

(c) Neither the provisions of this section nor the provisions of any other law of this state shall be construed to require the payment of compensation at a greater rate than the normal rate for services performed by agricultural employees in excess of forty (40) hours per week.

(d) This section shall not apply to any employee exempt from the overtime requirements of the federal Fair Labor Standards Act pursuant to the provisions of 29 U.S.C. § 213(b)(1)-(24) and (b)(28)-(30), as they existed on March 1, 2006.

(e) No public agency shall be deemed to have violated this section with respect to the employment of any employee in fire protection activities or law enforcement activities, including security personnel in correctional institutions, provided that the public agency pays overtime pay in compliance with 29 U.S.C. § 207(k), as it existed on March 1, 2006.

(f) In lieu of overtime compensation, the State of Arkansas and any political subdivision of the state may award compensatory time off at a rate of not less than one and one-half (1 ½) hours for each hour of employment for which overtime compensation is required. The compensatory time off may be provided only:

(1)(A) Pursuant to applicable provisions of a collective bargaining agreement, memorandum of understanding, or other agreement between the public agency and representatives of such employees.

(B) In the case of employees not covered by subdivision (f)(1)(A) of this section, an agreement or understanding arrived at between the employer and employee before the performance of the work; and

(2) If the employee has not terminated employment and has not accrued compensatory time in excess of the following:

(A) Four hundred eighty (480) hours for police, firefighters, emergency response personnel, and employees engaged in seasonal activities; or

(B) Two hundred forty (240) hours for any public employee not otherwise exempt or covered by subdivision (f)(2)(A) of this section.

(g) By rule, the Director of the Division of Labor may authorize employment in excess of the standard set by subsection (a) of this section or may authorize the calculation of overtime on a basis other than the regular rate of pay required by subsection (a) of this section for employment:

(1) Necessitating irregular hours of work;

(2) At a piece rate;

(3) Paying on a commission basis in a retail or service establishment;

(4) In a hospital or enterprise engaged in the care of the sick, the aged, or individuals with mental illness;

(5) By an independently-owned-and-controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products; and

(6) Under a collective bargaining agreement.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1977, No. 345, §§ 4, 5; 1983, No. 453, § 2; A.S.A. 1947, §§ 81-321, 81-321.1; Acts 1991, No. 544, § 2; 2006 (1st Ex. Sess.), No. 15, § 4; 2006 (1st Ex. Sess.), No. 16, § 4; 2007, No. 545, § 2; 2019, No. 315, § 761; 2019, No. 910, § 5312.

**Amendments.** The 2019 amendment by No. 315 deleted “or regulation” following “rule” in the introductory language of (g).



The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the introductory language of (g).

### CASE NOTES

#### ANALYSIS

Class Action.  
Work.

#### Class Action.

In a case alleging violations of the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., a circuit court did not abuse its discretion in certifying a class action under the less rigorous analysis of Ark. R. Civ. P. 23. The question of whether an employer's lunch auto-deduct policy was illegal and whether its time reclamation policy was reasonable could have been determined on a class-wide basis and was common for all putative class members. Whether the employer had a reasonable reclamation process for claiming overtime was a question that predominated over individual issues. On the issue of superiority, even though the employer was permitted to defend as it saw fit, the question was really more about how to best manage the case, something that the circuit court had broad discretion to determine. Ark. Dep't of Veterans Affairs v. Okeke, 2015 Ark. 275, 466 S.W.3d 399 (2015).

In cases arising from the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., it was an abuse of discretion to certify a class of hourly, nonnursing employees alleging that they were not paid for overtime hours worked because a determination of liability would have required a highly individualized inquiry as to each employee's hours during a given week. Under the predominance require-

ment of Ark. R. Civ. P. 23, there was no one set of operative facts to establish liability to any given class member; if the employee did not work through lunch, and if the employee failed to work more than 40 hours in a given work week, there was no liability. Ark. Dep't of Veterans Affairs v. Mallett, 2015 Ark. 428, 474 S.W.3d 861 (2015).

#### Work.

In a case relating to a failure to pay overtime wages, an employer's mandatory donning and doffing activities clearly constituted "work" as contemplated by the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., despite the custom and practice under a collective-bargaining agreement; moreover, an exception for unionized employees under federal law was not engrafted into the Arkansas act. Gerber Prods. Co. v. Hewitt, 2016 Ark. 222, 492 S.W.3d 856 (2016) (decision under prior law).

Circuit court properly granted class certification under the commonality, predominance, and superiority requirements of Ark. R. Civ. P. 23 to the employees in their action alleging that the employer failed to pay them for time spent changing into (donning) and out of (doffing) protective equipment because donning and doffing constituted work under the Minimum Wage Law, the employer required all hourly employees to wear a similar uniform regardless of position or department, and the employer's policy required each employee to arrive at the workstation fully dressed and leave fully dressed. Koppers, Inc. v. Trotter, 2020 Ark. 354 (2020).

### 11-4-212. Allowance for gratuities.

(a) Every employer of an employee engaged in any occupation in which gratuities have been customarily and usually constituted and have been recognized as a part of remuneration for hiring purposes shall be entitled to an allowance for gratuities as a part of the hourly wage rate provided in § 11-4-210 in an amount of no less than three dollars and sixty-two cents (\$3.62) per hour, provided that the employee actually received that amount in gratuities and that the application of the foregoing gratuity allowances results in payment of wages other than gratuities to tipped employees, including full-time students sub-

ject to the provisions of § 11-4-210, of no less than two dollars and sixty-three cents (\$2.63) per hour.

(b) In determining whether an employee received in gratuities the amount claimed, the Director of the Division of Labor may require the employee to show to the satisfaction of the director that the actual amount of gratuities received by him or her during any work week was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1973, No. 13, § 1; 1975, No. 316, § 1; 1975 (Extended Sess., 1976), No. 1156, § 1; 1977, No. 345, § 3; 1979, No. 996, § 4; 1981, No. 610, § 1; 1981, No. 667, § 1; A.S.A. 1947, § 81-321; reen. Acts 1987, No. 987, § 1; 2006 (1st Ex. Sess.),

No. 15, § 7; 2006 (1st Ex. Sess.), No. 16, § 7; 2007, No. 707, § 1; 2019, No. 910, § 5313.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b).

### RESEARCH REFERENCES

**Ark. L. Rev.** J. Dalton Person, Comment: Exotic Dancers & FLSA: Are Strip-

pers Employees?, 69 Ark. L. Rev. 173 (2016).

#### 11-4-213. Allowance for furnishing board, lodging, apparel, etc.

(a) An employer of an employee engaged in an occupation in which board, lodging, apparel, or other items and services are customarily and regularly furnished to the employee for his or her benefit is entitled to an allowance for the reasonable value of board, lodging, apparel, or other items and services as part of the hourly wage rate provided in § 11-4-210 in an amount not to exceed the fair and reasonable cost of the board, lodging, apparel, or other items and services.

(b) The determination of reasonable cost of the board, lodging, apparel, or other items and services shall be based on 29 U.S.C. § 203(m), as it existed on January 1, 2019, and 29 C.F.R. § 531.1 et seq.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1973, No. 13, § 1; A.S.A. 1947, § 81-321; Acts 2019, No. 853, § 2; 2019, No. 910, § 5314.

**A.C.R.C. Notes.** The amendment of this section by Acts 2019, No. 853, supersedes the amendment by Acts 2019, No. 910, § 5314, which substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b).

**Amendments.** The 2019 amendment by No. 853 substituted "the fair and reasonable cost of the board, lodging, apparel, or other items and services" for "thirty cents (30¢) per hour" in (a); rewrote (b); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b).

#### 11-4-214. Temporary special exemptions — Definition.

(a) Any person handicapped by lack of skill, age, or physical or mental deficiency or injury in any way that his or her earning capacity is impaired shall be granted a temporary special exemption license or permit authorizing the employment of the person at wages lower than



the minimum prescribed in this subchapter until such time as the Director of the Division of Labor shall hold a hearing and prescribe rules regarding exemption of these persons as authorized in this section.

(b)(1) The director may provide by rule, after notice and public hearing at which any person may be heard, for the employment in any occupation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury at wages lower than the minimum wage rate provided in § 11-4-210 as he or she may find appropriate to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rate under this subchapter.

(2) In addition, the director, by rule or special order, may provide for the employment of handicapped clients in work activities centers under special certificates at wages that are less than the minimum prescribed in § 11-4-210 that the director determines constitutes equitable compensation for the clients in work activities centers.

(c) For the purposes of this section, the term “work activities centers” shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical and mental impairment is so severe as to make their productivity capacities inconsequential.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 6; A.S.A. 1947, § 81-324; Acts 2001, No. 1423, § 6; 2019, No. 315, § 762; 2019, No. 910, § 5315.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regula-

tions” in (a); and substituted “rule” for “regulation” twice in (b).

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

### 11-4-215. Learners, apprentices, and full-time students.

(a) For any occupation, the Director of the Division of Labor may provide, by rule, after a public hearing at which any person may be heard, for the employment in the occupation of learners, apprentices, and full-time students at wages lower than the minimum wage rate provided in § 11-4-210(b) as he or she may find appropriate to prevent curtailment of opportunities for employment and to safeguard the minimum wage rate under this subchapter.

(b) No employee shall be employed at wages fixed pursuant to this section, except under special license issued under applicable rules of the director.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 7; A.S.A. 1947, § 81-325; Acts 2001, No. 1423, § 7; 2019, No. 315, § 763; 2019, No. 910, § 5316.

**Amendments.** The 2019 amendment by No. 315 substituted “rule” for “regula-

tion” in (a); and substituted “rules” for “regulations” in (b).

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

**11-4-216. Posting of law.**

(a) Every employer subject to any provisions of this subchapter or of any rules issued under this subchapter shall keep a summary of this subchapter, approved by the Director of the Division of Labor, and copies of any applicable rules issued under this subchapter, or a summary of the rules approved by the director, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed.

(b) Employers shall be furnished copies of the summaries of this statute and rules by the director on request without charge.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 9; A.S.A. 1947, § 81-327; Acts 2001, No. 1423, § 8; 2019, No. 315, § 764; 2019, No. 910, § 5317.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” throughout the section.

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

**11-4-217. Records kept by employer.**

(a) Every employer subject to any provision of this subchapter or of any rule issued under this subchapter shall make and keep for a period of not less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his or her employees, the rate of pay, the amount paid each pay period to each employee, and such other information as the Director of the Division of Labor shall prescribe by rule as necessary or appropriate for the enforcement of the provisions of this subchapter or of the rules under this subchapter.

(b) The records shall be open for inspection or transcription by the director or his or her authorized representative at any reasonable time.

(c) Every employer shall furnish to the director or to his or her authorized representative on demand a sworn statement of the records and information upon forms prescribed or approved by the director.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 8; A.S.A. 1947, § 81-326; Acts 2001, No. 1423, § 9; 2019, No. 315, § 765; 2019, No. 910, § 5318.

**Amendments.** The 2019 amendment by No. 315, in (a), substituted “rule” for

“regulation” twice and substituted “rules” for “regulations”.

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

**11-4-218. Employee’s remedies.**

(a)(1) Any employer who pays any employee less than the minimum wages, including overtime compensation or compensatory time off as provided by this subchapter, to which the employee is entitled under or by virtue of this subchapter shall:

(A) Pay any applicable civil penalties; and

(B) Be liable to the employee affected for:



(i) The full amount of the wages, less any amount actually paid to the employee by the employer; and

(ii) Costs and such reasonable attorney's fees as may be allowed by the court.

(2) The employee may be awarded an additional amount up to, but not greater than, the amount under subdivision (a)(1)(B)(i) of this section to be paid as liquidated damages if the employee proves the violation was willful.

(b) Any agreement between the employee and employer to work for less than minimum wages shall be no defense to the action.

(c) The venue of the action shall lie in the circuit court of any county in which the services that are the subject of the employment were performed.

(d)(1) The Director of the Division of Labor shall have the authority to fully enforce this subchapter by instituting legal action to recover any wages that he or she determines to be due to employees under this subchapter.

(2) No legal action shall be brought by the director until after notice and opportunity for hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and entry of a final administrative order.

(3)(A) Following any appeals taken pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the director shall be entitled to enforce his or her final administrative order in any court of competent jurisdiction without paying costs or giving bond for costs.

(B) The director's findings of fact shall be conclusive in any such proceeding.

(e)(1) An employee may bring an action for equitable and monetary relief against an employer, including the State of Arkansas or a political subdivision of the state, if the employer pays the employee less than the minimum wages, including overtime wages, to which the employee is entitled under or by virtue of this subchapter.

(2) If the employee brings an action under this subsection, then any complaint before the director by the employee on the same matter shall be dismissed with respect to that employee.

(3)(A) The employee shall not be required to exhaust administrative remedies before bringing an action.

(B) There shall be no procedural, pleading, or burden of proof requirements beyond those that apply generally to civil suits in order to maintain the action.

(4) An employee shall not become a party plaintiff to an action under subdivision (e)(1) of this section unless he or she gives consent in writing to become a party to the action and files the consent in the court in which the action is brought.

(f) When construing this subchapter, a court may look for guidance to state and federal decisions interpreting the Fair Labor Standards Act of 1938, as amended and codified in 29 U.S.C. § 201 et seq., as it existed

on January 1, 2017, which decisions and act shall have persuasive authority only.

(g) The statute of limitations for causes of action under this subchapter is two (2) years.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 12; 1971, No. 731, § 1; A.S.A. 1947, § 81-330; Acts 1997, No. 221, § 1; 1999, No. 981, § 1; 2006 (1st Ex. Sess.), No. 15, § 5; 2006 (1st Ex. Sess.), No. 16, § 5; 2017, No. 914, § 3; 2019, No. 853, §§ 3-5; 2019, No. 910, § 5319.

**A.C.R.C. Notes.** Acts 2017, No. 914, § 1, provided: "Purpose. The purpose of this act is to resolve questions that have arisen regarding:

"(1) The proper interpretation of § 11-4-205 and § 11-4-218(b); and

"(2) What activities constitute 'work' under the Minimum Wage Act of the State

of Arkansas, § 11-4-201 et seq., as interpreted by the Supreme Court in *Gerber Products Company v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856."

**Amendments.** The 2017 amendment added (f).

The 2019 amendment by No. 853 added "if the employee proves the violation was willful" in (a)(2); and added (e)(4) and (g).

The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (d)(1).

## RESEARCH REFERENCES

**Ark. L. Rev.** Robert C. Dalby, Comment: Too Plain to Be Misunderstood: Sovereign Immunity Under the Arkansas Constitution, 71 Ark. L. Rev. 761 (2019).

**U. Ark. Little Rock L. Rev.** Liz Harris,

Note: Mandatory-Workplace Donning and Doffing—All in a Day's Work: A Review of *Gerber Products Co. v. Hewitt*, 40 U. Ark. Little Rock L. Rev. 428 (2018).

## CASE NOTES

### ANALYSIS

Constitutionality.

Arbitration.

Failure to Pay Overtime.

### Constitutionality.

Supreme Court of Arkansas concludes that the legislative waiver of sovereign immunity in subsection (e) of this section is repugnant to Ark. Const., Art. 5, § 20. In reaching this conclusion, the Supreme Court interprets the constitutional provision, "The State of Arkansas shall never be made a defendant in any of her courts", precisely as it reads. The drafters of the current constitution removed language from the 1868 constitution that provided the General Assembly with statutory authority to waive sovereign immunity and instead used the word "never". The people of the State of Arkansas approved this change when ratifying the current constitution. The General Assembly does not have the power to override a constitutional provision. To the extent subsection

(e) of this section directly contradicts the constitution, it must fail. *Bd. of Trs. of the Univ. of Ark. v. Andrews*, 2018 Ark. 12, 535 S.W.3d 616 (2018).

In a class action suit under the Arkansas Minimum Wage Act, the circuit court's denial of the defendant's motion to dismiss on sovereign immunity grounds was reversed per the holding in *Board of Trustees v. Andrews*, 2018 Ark. 12, which held unconstitutional the provision of the Arkansas Minimum Wage Act, § 11-4-218(e), that allows the State to be named as a defendant. The avenue for financial redress is through the Claims Commission. *Ark. VA v. Mallett*, 2018 Ark. 217, 549 S.W.3d 351 (2018).

### Arbitration.

In employees' class action alleging violations of the Minimum Wage Law, § 11-4-201 et seq., where the employer moved to compel arbitration, the provision of this section that exhaustion of administrative remedies is not required was inapplicable to the arbitration agreements the em-



ployer executed with its employees because administrative agencies, not private parties, establish administrative remedies; the employees' argument that the arbitration agreements violated subdivision (e)(3)(B) of this section also failed. *BHC Pinnacle Pointe Hosp., LLC v. Nelson*, 2020 Ark. 70, 594 S.W.3d 62 (2020).

#### **Failure to Pay Overtime.**

In a case relating to a failure to pay overtime wages, an employer's mandatory

donning and doffing activities clearly constituted "work" as contemplated by the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., despite the custom and practice under a collective-bargaining agreement; moreover, an exception for unionized employees under federal law was not engrafted into the Arkansas act. *Gerber Prods. Co. v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856 (2016) (decision under prior law).

### **11-4-219. Judicial review.**

(a) Any interested person in any occupation for which any administrative rule has been issued under the provisions of this subchapter who may be aggrieved by any rule may obtain a review thereof in the circuit court of the county of the residence of the aggrieved party by filing in the court within twenty (20) days after the date of publication of the rule a written petition praying that the rule be modified or set aside.

(b) A copy of the petition shall be served upon the Director of the Division of Labor.

(c)(1) The court shall review the record of the proceedings before the director, and the director's findings of fact shall be affirmed if supported by substantial evidence. The court shall determine whether the rule is in accordance with law.

(2) If the court determines that the rule is not in accordance with law, it shall remand the case to the director with directions to modify or revoke the rule.

(d)(1) If application is made to the court for leave to adduce additional evidence by any aggrieved party, the party shall show to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence before the director.

(2) If the court finds that the evidence is material and that reasonable grounds exist for failure of the aggrieved party to adduce the evidence in prior proceedings, the court shall remand the case to the director with directions that the additional evidence be taken before the director.

(3) The director may modify his or her findings and conclusions, in whole or in part, by reason of the additional evidence.

(e) Hearings in the circuit court on all appeals taken under the provisions of this subchapter shall take precedence over all matters except matters of the same character. The jurisdiction of the court shall be exclusive, and its judgment and decree shall be final, except that it shall be subject to review by the Supreme Court.

(f)(1) The commencement of proceedings under subsections (a)-(d) of this section, unless specifically ordered by the court, shall not operate as a stay of an administrative rule issued under the provisions of this subchapter.

(2) The court shall not grant any stay of an administrative rule unless the person complaining of the rule shall file an amount in the court, undertaking with a surety satisfactory to the court, for payment to the employees affected by the rule in the event that the rule is affirmed. The surety shall be in an amount by which the compensation the employees are entitled to receive under the rule exceeds the compensation they actually receive while the stay is in effect.

**History.** Acts 1968 (1st Ex. Sess.), No. 25, § 10; A.S.A. 1947, § 81-328; Acts 2001, No. 1423, § 10; 2019, No. 315, §§ 766-768; 2019, No. 910, § 5320.

**Amendments.** The 2019 amendment by No. 315 substituted “rule” for “regulation” throughout (a), (c), and (f).

The 2019 amendment by No. 910 substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (b).

#### **11-4-220. Person entitled to file a claim.**

(a) Any employee covered by this subchapter may file a claim with the Director of the Division of Labor charging that an employer has violated § 11-4-210 or § 11-4-211 as to any employee or other person.

(b) The director shall promptly investigate each claim.

(c) The name of any employee identified in a claim shall be kept confidential until the director issues an administrative complaint or the director is ordered to release the information by order of a court of competent jurisdiction.

**History.** Acts 2006 (1st Ex. Sess.), No. 15, § 6; 2006 (1st Ex. Sess.), No. 16, § 6; 2019, No. 910, § 5321.

substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

**Amendments.** The 2019 amendment

#### **11-4-221. Relief from liability under this subchapter for failure to pay minimum wage or overtime compensation.**

(a) Except as provided in subsection (b) of this section, an employer is not subject to liability under this subchapter, on account of the failure of the employer to pay an employee minimum wages or to pay an employee overtime compensation, for or on account of any of the following activities of the employee:

(1) Walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which the employee is employed to perform;

(2)(A) An activity that is preliminary to or postliminary to the principal activity or activities, which occurs either before the time on any particular workday at which the employee commences or subsequent to the time on any particular workday at which he or she ceases the principal activity or activities.

(B) For purposes of subdivision (a)(2)(A) of this section, the use of an employer’s vehicle for travel by an employee and activities performed by an employee that are incidental to the use of the vehicle



for commuting shall not be considered part of the employee's principal activities if the use of the vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of the employee; and

(3) For an employee of a motor carrier employed in a driving capacity, in addition to those activities listed in subdivisions (a)(1) and (2) of this section, an activity that occurs while the employee is:

(A) Traveling to or from a personal residence;

(B) Engaging in a personal activity that is not primarily in furtherance of the employer's business; or

(C) Logging time as "off-duty" or "sleeper berth".

(b) Notwithstanding the provisions of subsection (a) of this section that relieve an employer from liability and punishment with respect to any activity, the employer is not relieved from liability if the activity is compensable by either:

(1) An express provision of a written or oral contract in effect at the time of the activity between the employee, his or her agent, or collective-bargaining representative and his or her employer; or

(2) A custom or practice in effect at the time of the activity at the establishment or other place where the employee is employed covering the activity, not inconsistent with a written or oral contract in effect at the time of the activity, between the employee, his or her agent, or collective-bargaining representative and his or her employer.

(c) For the purposes of subsection (b) of this section, an activity shall be considered as compensable under a contract provision or a custom or practice only when the activity is engaged in during the portion of the day with respect to which it is compensable.

(d) In the application of the minimum wage and overtime compensation provisions of this subchapter, in determining the time for which an employer employs an employee with respect to walking, riding, traveling, or other preliminary or postliminary activities described in subsection (a) of this section, the time, but only that time, during which the employee engages in any activity which is compensable within the meaning of subsections (b) and (c) of this section shall be counted.

(e) This section applies only to conduct occurring on or after April 5, 2017.

**History.** Acts 2017, No. 914, § 4; 2021, No. 91, § 1.

**A.C.R.C. Notes.** Acts 2017, No. 914, § 1, provided: "Purpose. The purpose of this act is to resolve questions that have arisen regarding:

"(1) The proper interpretation of § 11-4-205 and § 11-4-218(b); and

"(2) What activities constitute 'work' under the Minimum Wage Act of the State of Arkansas, § 11-4-201 et seq., as interpreted by the Supreme Court in *Gerber Products Company v. Hewitt*, 2016 Ark. 222, 492 S.W.3d 856."

**Amendments.** The 2021 amendment added (a)(3).

**11-4-222. Political subdivisions prohibited from requiring more than federal or state requirements from employers — Definitions.**

(a) As used in this section:

(1) “Employee” means an individual employed in this state by an employer;

(2)(A) “Employer” means an individual, sole proprietorship, partnership, limited liability company, corporation, or other entity that does business in this state.

(B) However, “employer” does not include a public employer;

(3) “Employment benefit” means anything of value that an employee may receive from an employer in addition to wages and salary, including without limitation:

(A) Health, disability, retirement, profit-sharing, and death benefits;

(B) Group accidental death and dismemberment benefits;

(C) Paid or unpaid days off from work for holidays, sick leave, vacation, and personal necessity; and

(D) Terms of employment, notice of scheduling, attendance, or leave policies;

(4) “Political subdivision” means a county, city, or town in this state; and

(5) “Public employer” means the State of Arkansas and each political subdivision of the state.

(b) A political subdivision shall not establish, mandate, or otherwise require an employer to provide to an employee a minimum or living wage rate or employment benefit that exceeds the requirements of federal laws or regulations or state laws or rules.

**History.** Acts 2017, No. 643, § 2.

**A.C.R.C. Notes.** Acts 2017, No. 643, § 1, provided: “Legislative intent. The General Assembly finds that:

“(1)(A) Arkansas employers are best able to grow and invest in their communities when operating under a clear, consistent regulatory system that imposes only those burdens absolutely necessary to promote the public welfare.

“(B) Allowing localities to mandate employer-provided benefits would create a patchwork of local regulations discouraging employers from growing and investing and imposing significant compliance burdens on them; and

“(C) Furthermore, locally mandated benefits frustrate the General Assembly’s

goal of a thriving statewide economy and place Arkansas employers at a competitive disadvantage to employers in other states not burdened with unnecessary local regulations; and

“(2) Preemption of burdensome and unnecessary local government mandates on employers to provide employee benefits provides a stable environment for Arkansas employers and promotes economic development.”

Acts 2017, No. 643, § 3, provided: “Applicability. Section 2 of this act does not preempt any state law or local minimum wage ordinance requirements in effect on the effective date of this act [August 1, 2017].”



### SUBCHAPTER 3 — WAGE DISPUTES

#### SECTION.

11-4-303. Director of Division of Labor to conduct hearing.

#### SECTION.

11-4-304. Judicial review.

11-4-306. Fees prohibited.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

#### 11-4-303. Director of Division of Labor to conduct hearing.

(a) Upon application of either employer or employee, the Director of the Division of Labor or any person authorized by the director shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages.

(b) Upon motion of either employer or employee, the amount found to be due may be paid in the presence of the director or person designated by him or her, and after final hearing by the director or person appointed by him or her, he or she shall file in the office of the Division of Labor a copy of findings and facts and his or her award.

(c) The amount of the award of the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee.

**History.** Acts 1937, No. 86, § 2; Pope’s Dig., § 8538; A.S.A. 1947, § 81-312; Acts 2019, No. 910, § 5322.

**Amendments.** The 2019 amendment substituted “Director of Division of Labor” for “Director of Department of Labor” in

the section heading; substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a); and substituted “Division of Labor” for “Department of Labor” in (b).

#### 11-4-304. Judicial review.

(a) If either employer or employee shall fail or refuse to accept the findings of the Director of the Division of Labor, then either shall have the right to proceed at law as provided.

(b) If the claim is meritorious, and if within the discretion of the director the claimant’s lack of financial ability entitles him or her to the services of the Division of Labor, the director in the name of the State of Arkansas, for the benefit of the claimant, may institute action in any court of competent jurisdiction, without paying costs or giving bond for

costs, and shall be entitled to all remedies available to litigants in the prosecution of actions and their enforcement, if successful.

(c) Nothing in this section shall be construed so as to relieve an unsuccessful defendant from paying costs.

**History.** Acts 1937, No. 86, § 2; Pope's Dig., § 8538; A.S.A. 1947, § 81-312; Acts 2019, No. 910, § 5323.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a); and substituted "Division of Labor" for "Department of Labor" in (b).

### 11-4-306. Fees prohibited.

The Director of the Division of Labor or any person designated by him or her shall not charge or be permitted to accept any fees or remuneration whatsoever from any person for the performance of any duties under this subchapter.

**History.** Acts 1937, No. 86, § 5; Pope's Dig., § 8540; A.S.A. 1947, § 81-314; Acts 2019, No. 910, § 5324.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Labor" for "Director of the Department of Labor".

## SUBCHAPTER 4 — PAYMENT OF WAGES

### SECTION.

11-4-401. Payment semimonthly.

11-4-402. Discount for advance payment  
— Payments made in currency.

### SECTION.

11-4-403. Payment by evidence of indebtedness.

11-4-405. Payment on discharge.

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 11-4-401. Payment semimonthly.

(a) Except as provided in subsection (c) of this section, all corporations doing business in this state that employ any salespersons, mechanics, laborers, or other servants for the transaction of business shall pay the wages of the employees no less frequently than semimonthly.



(b) Any corporation that shall, through its president or otherwise, violate subsections (a) and (c) of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) for each offense.

(c) All corporations with an annual gross income of five hundred thousand dollars (\$500,000), or more, doing business in this state who shall employ any salespersons, mechanics, laborers, or other servants for the transaction of their business shall pay the wages of their management level and executive employees who are exempt under the provisions of Section 13 of the Fair Labor Standards Act, from the provisions of Sections 6 and 7 of that act, and who are compensated at a gross rate in excess of twenty-five thousand dollars (\$25,000) per year, at a minimum of once each calendar month.

**History.** Acts 1909, No. 13, §§ 1, 2, p. 21; C. & M. Dig., §§ 7131, 7132; Pope's Dig., §§ 9117, 9118; A.S.A. 1947, §§ 81-301, 81-302; Acts 1991, No. 1113, § 1; 2017, No. 475, § 1.

**Amendments.** The 2017 amendment, in (a), substituted "that" for "who shall", deleted "their" preceding "business", and inserted "no less frequently than".

#### **11-4-402. Discount for advance payment — Payments made in currency.**

(a) It shall be unlawful for any milling or manufacturing company, or any other person, corporation, or company employing persons to labor for them in the State of Arkansas, to discount the wages of their employees or laborers when payment is made or demanded before the regular paydays more than at the rate of ten percent (10%) per annum from the date of payment to the regular payday.

(b)(1)(A) All employees shall be paid in currency or by check or electronic direct deposit into the employee's account.

(B) The employee may opt out of electronic direct deposit by providing the employer a written statement requesting payment by check.

(2) Notwithstanding any provision to the contrary, an employee has a right to be paid in currency if the employer has at any time paid the employee with a check drawn on an account with insufficient funds.

(3) This subsection does not apply to any demand or claim by the Division of Labor.

(c) Any evasion or violation of this section shall be usury and a misdemeanor. The person, company, or corporation, or his, her, or its agents, violating this section shall be fined in any sum not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500), and the entire property of the person, company, or corporation shall be subject to the payment of the fine and costs.

**History.** Acts 1899, No. 172, §§ 1, 2, p. 310; C. & M. Dig., § 7356; Pope's Dig., § 9395; A.S.A. 1947, §§ 81-303, 81-304;

Acts 2003, No. 925, § 1; 2019, No. 910, § 5325.

**Amendments.** The 2019 amendment,

in (b)(3), deleted the designation "(b)" following "subsection", and substituted "Division of Labor" for "Department of Labor".

### **11-4-403. Payment by evidence of indebtedness.**

(a) It shall be unlawful for any corporation, company, firm, or person engaged in any trade or business in this state, either directly or indirectly, to issue, sell, give, or deliver to any person employed by the corporation, company, firm, or person, in payment of wages, whether the wages are earned or not, any scrip, token, draft, check, or other evidence of indebtedness payable or redeemable otherwise than in lawful money, at the next regular payday of the corporation, company, firm, or person.

(b) If the scrip, token, draft, check, or other evidence of indebtedness is issued, sold, given, or delivered to the laborer, it shall be construed, taken, and held in all courts and places to be a promise to pay the sum specified therein in lawful money by the corporation, company, firm, or person issuing, selling, giving, or delivering the same to the person named therein or the holder thereof.

(c) The corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness in violation of subsection (a) of this section shall, moreover, be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100). At the discretion of the court trying the action, the officer or agent of the corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness may be imprisoned not less than ten (10) nor more than thirty (30) days.

(d) In any suit by any holder of the scrip, token, draft, check, or other evidence of indebtedness or in any prosecution under the provisions of this section, it shall not be required of the plaintiff in the suit or the state in the prosecution to prove that the scrip, token, draft, check, or other evidence of indebtedness was sold, given, issued, or delivered by the defendant in the suit or prosecution to any laborer or employee in payment of wages of the laborer or employee.

(e) The provisions of this section do not apply to coal mines when fewer than twenty (20) men are employed under the ground.

(f)(1) It is lawful for an employer to pay its employees by automatic deposit or by providing a debit card preloaded with the amount of wages.

(2) If wages are paid by providing a preloaded debit card under subdivision (f)(1) of this section, at least one (1) free withdrawal shall be available for the funds for each deposit of wages loaded onto the debit card.

**History.** Acts 1907, No. 315, §§ 1, 3, p. 749; C. & M. Dig., §§ 7128, 7130; Pope's Dig., §§ 9114, 9116; A.S.A. 1947, §§ 81-305, 81-307; Acts 2019, No. 853, § 6.

**Amendments.** The 2019 amendment added (f).



**11-4-405. Payment on discharge.**

(a) An employer that discharges an employee is required to pay all wages due by the next regular payday.

(b) An employer that fails to make the payment required under subsection (a) of this section within seven (7) days of the next regular payday shall owe the employee double the wages due.

**History.** Acts 1889, No. 61, §§ 1-3, p. 76; 1903, No. 155, § 1, p. 272; 1905, No. 210, § 1, p. 537; C. & M. Dig., §§ 7125-7127; Pope's Dig., §§ 9111-9113; A.S.A. 1947, §§ 81-308 — 81-310; Acts 2019, No. 853, § 7.

**Amendments.** The 2019 amendment rewrote the section.

**SUBCHAPTER 6 — WAGE DISCRIMINATION**

SECTION.	SECTION.
11-4-607. Definitions for §§ 11-4-608 — 11-4-612.	11-4-609. Administration of this section, §§ 11-4-607 and 11-4-608, and 11-4-610 — 11-4-612.
11-4-608. Penalties for violation of this section, §§ 11-4-607, and 11-4-609 — 11-4-612.	11-4-611. Action to collect unpaid wages.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**11-4-601. Discrimination on the basis of sex prohibited.**

**CASE NOTES**

**Cited:** Holt v. Deer-Mt. Judea Sch. Dist., 135 F. Supp. 3d 898 (W.D. Ark. 2015).

**11-4-607. Definitions for §§ 11-4-608 — 11-4-612.**

As used in §§ 11-4-608 — 11-4-612, unless the context otherwise requires:

(1)(A) "Employee" means an individual who performs services for an employer for wages in a lawful business, industry, trade, profession, or enterprise, and the individual's employment status has been

determined by consideration of the twenty-factor test required by the Empower Independent Contractors Act of 2019, § 11-1-201 et seq.

(B) “Employee” does not include a person engaged in domestic service in the home of the employer; in agricultural service, or in temporary or seasonal employment; an employee of any social club, fraternal, charitable, educational, religious, scientific, or literary association, no part of the net earnings of which inures to the benefit of any private individual;

(2) “Employer” means a person, natural or artificial, acting in the interest of an employer directly or indirectly; and

(3) “Employment” means employment of an employee under contract of hire, expressed or implied, written or oral.

**History.** Acts 1955, No. 361, § 1; A.S.A. 1947, § 81-623; Acts 2019, No. 1055, § 3.

**Amendments.** The 2019 amendment rewrote (1)(A); substituted “Employee” does not include a person” for “However, it shall not include persons” and substituted

“an employee” for “employees” in (1)(B); substituted “means a” for “shall include any” in (2); and substituted “employment of an employee” for “any employment” in (3).

#### **11-4-608. Penalties for violation of this section, §§ 11-4-607, and 11-4-609 — 11-4-612.**

Any employer who violates any provision of this section, §§ 11-4-607, and 11-4-609 — 11-4-612, or who discharges or in any other manner discriminates against any employee because the employee has made a complaint to his or her employer, the Director of the Division of Labor, or any other person, has instituted or caused to be instituted any proceedings under or related to this section, §§ 11-4-607, and 11-4-609 — 11-4-612, or has testified or is about to testify in any such proceeding shall be fined not more than five hundred dollars (\$500) nor imprisoned more than one (1) year, or both.

**History.** Acts 1955, No. 361, § 6; A.S.A. 1947, § 81-628; Acts 2019, No. 910, § 5326.

substituted “Director of the Division of Labor” for “Director of the Department of Labor”.

**Amendments.** The 2019 amendment

#### **11-4-609. Administration of this section, §§ 11-4-607 and 11-4-608, and 11-4-610 — 11-4-612.**

The Director of the Division of Labor shall have the power and it shall be his or her duty to carry out and administer the provisions of this section, §§ 11-4-607 and 11-4-608, and 11-4-610 — 11-4-612.

**History.** Acts 1955, No. 361, § 3; A.S.A. 1947, § 81-625; Acts 2019, No. 910, § 5327.

substituted “Director of the Division of Labor” for “Director of the Department of Labor”.

**Amendments.** The 2019 amendment



**11-4-610. Wage discrimination between sexes prohibited.****CASE NOTES**

**Cited:** Holt v. Deer-Mt. Judea Sch. Dist., 135 F. Supp. 3d 898 (W.D. Ark. 2015).

**11-4-611. Action to collect unpaid wages.**

(a) An employer who violates the provisions of § 11-4-610 shall be liable to the employee or employees affected in the amount of their unpaid wages.

(b)(1) Action to recover the wages may be maintained in any court of competent jurisdiction by any one (1) or more employees.

(2) Any agreement between the employer and the employee to work for less than the wage to which the employee is entitled under this section, §§ 11-4-607 — 11-4-610, and 11-4-612 shall be no defense to the action.

(3) In addition to any wages recovered, the court in the action shall allow an additional equal amount as liquidated damages plus a reasonable attorney's fee and court costs.

(4) At the request of any employee paid less than the wage to which he or she is entitled under this section, §§ 11-4-607 — 11-4-610, and 11-4-612, the Director of the Division of Labor may take an assignment of the wage claim in trust for the employee and shall bring any legal action necessary to collect the claim. The director shall not be required to pay any court costs in connection with the action.

(c) Any action to recover wages and liquidated damages based on violation of § 11-4-610 must be commenced within two (2) years of the accrual thereof and not afterwards.

**History.** Acts 1955, No. 361, §§ 4, 7; A.S.A. 1947, §§ 81-626, 81-629; Acts 2019, No. 910, § 5328.

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the first sentence of (b)(4).

**Amendments.** The 2019 amendment

**CHAPTER 5****WORKING CONDITIONS GENERALLY****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. INDUSTRIAL HEALTH SERVICE ACT. [REPEALED.]
3. WORK NEAR HIGH VOLTAGE LINES.
5. EMPLOYEE MICROCHIP IMPLANTATION.

**SUBCHAPTER 1 — GENERAL PROVISIONS****SECTION.**

11-5-101. Suitable temperature, humidity, and air space required.

**SECTION.**

11-5-107. Inspection of working place — Findings.

## SECTION.

11-5-108. Order to correct conditions — Issuance.

11-5-109. Order to correct conditions — Conclusiveness — Action to set aside.

11-5-110. Order to correct conditions — Penalties for noncompliance.

## SECTION.

11-5-112. Separate facilities for males and females required.

11-5-117. Possession of firearm in private employer parking lot — Definition.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 11-5-101. Suitable temperature, humidity, and air space required.

(a) In every factory, mill, workshop, mercantile establishment, laundry, or other establishment, adequate measures shall be taken for securing and maintaining a reasonable, and as far as possible, an equable temperature consistent with the reasonable requirements of the manufacturing process.

(b) No unnecessary humidity which would jeopardize the health of employees shall be permitted.

(c) In every room, apartment, or building used as a factory, mill, workshop, mercantile establishment, laundry, or other place of employment, sufficient air space shall be provided for every employee which in the judgment of the Director of the Division of Labor or of his or her deputies and inspectors is sufficient for the employees' health and welfare.

**History.** Acts 1937, No. 323, § 1; Pope's Dig., § 6469; A.S.A. 1947, § 81-401; Acts 2019, No. 910, § 5329.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (c).

### 11-5-107. Inspection of working place — Findings.

(a) The Director of the Division of Labor or any of his or her deputies or inspectors shall have the right to enter any factory, mill, workshop, mercantile establishment, laundry, or other establishment where three



(3) or more persons are employed for the purpose of making inspections and enforcing the provisions of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111.

(b) They are empowered upon finding any violation of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111 by reason of unsanitary conditions which will endanger the health of the employees therein employed, by reason of neglect to remove and prevent fumes and gases or odor injurious to employees, by reason of the failure or refusal to comply with any requirement of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111, or by reason of the inadequacy or insufficiency of any plan, method, practice, or device employed in assumed compliance with any of the requirements of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111 to pass upon and to make a written finding as to the failure or refusal to comply with any requirement of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111 or as to adequacy or sufficiency of any practice, plan, or method used in or about any place mentioned in this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111 in supposed compliance with any of the requirements of this section, §§ 11-5-101 — 11-5-106, and 11-5-108 — 11-5-111.

**History.** Acts 1937, No. 323, § 6; Pope's Dig., § 6474; A.S.A. 1947, § 81-406; Acts 2019, No. 910, § 5330.

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

**Amendments.** The 2019 amendment

### 11-5-108. Order to correct conditions — Issuance.

(a) The Director of the Division of Labor or any of his or her deputies or inspectors may issue a written order to the owner, manager, superintendent, or other person in control or management of the place or establishment for the correction of any condition caused or permitted in or about the place or establishment in violation of any of the requirements of this section, §§ 11-5-101 — 11-5-107, and 11-5-109 — 11-5-111, or of any condition, practice, plan, or method used therein or thereabouts in supposed compliance with any requirement of this section, §§ 11-5-101 — 11-5-107, and 11-5-109 — 11-5-111 but which are found to be inadequate or insufficient, in any respect, to comply therewith, and shall state in the order how the conditions, practices, plans, or methods, in any case, shall be corrected and the time within which they shall be corrected, a reasonable time being given in the order therefor.

(b) One (1) copy of the order shall be delivered to the owner, manager, superintendent, or other person in control or management of the place or establishment, and one (1) copy shall be filed in the office of the Division of Labor.

**History.** Acts 1937, No. 323, § 6; Pope's Dig., § 6474; A.S.A. 1947, § 81-406; Acts 2019, No. 910, § 5331.

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a); and substituted "Division of Labor" for "Department of Labor" in (b).

**Amendments.** The 2019 amendment

**11-5-109. Order to correct conditions — Conclusiveness — Action to set aside.**

(a) The findings and orders shall be prima facie valid, reasonable, and just and shall be conclusive unless attacked and set aside in the manner provided in subsections (b) and (c) of this section.

(b)(1) The owner or owners, manager, superintendent, or other person in control or management of any place or establishment covered by this chapter, and directly affected by any finding or order provided for in §§ 11-5-107 and 11-5-108, may, within fifteen (15) days from the date of the delivery to him, her, or them of a copy of the order as provided for in §§ 11-5-107 and 11-5-108, file a petition setting forth the particular cause of objection to the order and findings in a court of competent jurisdiction against the Director of the Division of Labor.

(2) The action shall have precedence over all other causes of a different nature and shall be tried and determined as other civil causes in the court.

(3) If the court is in session at the time the cause of action arises, the suit may be filed during the term and stand ready for trial after ten (10) days' notice.

(c)(1) Either party may appeal but shall not have the right to sue out a writ of error from the trial court.

(2) The appeal shall at once be returnable to the proper appellate court at either of its terms and shall have precedence in the appellate court over other causes of a different nature.

(d) In any trial under this section, the burden shall be upon the plaintiff to show that the findings and order complained of are illegal, unreasonable, or unjust to the plaintiff.

**History.** Acts 1937, No. 323, §§ 6, 7; Pope's Dig., §§ 6474, 6475; A.S.A. 1947, §§ 81-406, 81-407; Acts 2019, No. 910, § 5332.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b)(1).

**11-5-110. Order to correct conditions — Penalties for noncompliance.**

(a) Upon the failure or refusal of the owner, manager, superintendent, or other person in control or management of a place or establishment, to comply with an order issued pursuant to § 11-5-108 within the time therein specified, unless it has been attacked and suspended or set aside as provided for in § 11-5-109, the Director of the Division of Labor or his or her deputy or inspectors shall have full authority and power to close the place or establishment, or any part of it that may be in an unsanitary or dangerous condition or contain immoral influences in violation of any requirement of §§ 11-5-101 — 11-5-110 or order, until such time as the condition, practice, or method is corrected.

(b) Any person in control or management of any establishment included in § 11-5-109 who shall fail or refuse to comply with any written order issued to the person by the director or any of his or her



deputies or inspectors, for the correction of any condition caused or permitted therein which endangers the health of the employees therein or which does not comply with the law governing those establishments, shall be punished as provided in § 11-5-111.

**History.** Acts 1937, No. 323, §§ 6, 8; Pope's Dig., §§ 6474, 6476; A.S.A. 1947, §§ 81-406, 81-408; Acts 2019, No. 910, § 5333.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

### **11-5-112. Separate facilities for males and females required.**

(a) There shall be provided in every factory, manufacturing establishment, workshop, or other place where six (6) or more males and females are employed separate toilets and washrooms for males and females.

(b)(1) The Director of the Division of Labor shall enforce the provisions of this section and shall give notice in writing to employers violating it.

(2) Upon failure to comply with the provisions of this section after thirty (30) days from the notice, the employers shall be liable to penalties provided in subsection (c) of this section.

(c)(1) Any firm, person, or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

(2) Each day shall constitute a separate offense.

(d) This section shall not repeal any laws now in force but shall be cumulative thereto.

**History.** Acts 1919, No. 265, §§ 1-4; C. & M. Dig., §§ 7116-7118; Pope's Dig., §§ 9102-9104; A.S.A. 1947, §§ 81-410 — 81-413; Acts 1997, No. 300, § 1; 2019, No. 910, § 5334.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b)(1).

### **11-5-115. Prevention of workplace violence.**

#### **RESEARCH REFERENCES**

**ALR.** Liability for Workplace Bullying That Does Not Involve Class-Based Discrimination. 27 A.L.R.7th Art. 3 (2018).

### **11-5-117. Possession of firearm in private employer parking lot — Definition.**

(a)(1) As used in this section, "parking lot" means a designated area or structure or part of a structure intended for the parking of motor vehicles.

(2)(A) "Parking lot" does not include a parking lot owned, maintained or otherwise controlled by the Department of Corrections or an entity

contracting with a division of the department to provide work release or post-incarceration housing services.

(B) The department will notify annually any entity subject to this provision of its applicability.

(b) A private employer shall not prohibit an employee from transporting or storing a legally owned firearm in the employee's private motor vehicle in the private employer's parking lot when the firearm is:

- (1) Lawfully possessed; and
- (2) Stored out of sight inside a locked private motor vehicle.

(c) A private employer shall not prohibit or attempt to prevent an employee from entering the parking lot of the private employer's place of business because the employee's private motor vehicle contains a firearm if the firearm is:

- (1) Kept for lawful purposes; and
- (2) Stored out of sight inside a locked private motor vehicle.

(d) An employer has the right to:

(1) Prohibit a person who is not an employee from storing a firearm in an employee's motor vehicle in the private employer's parking lot; and

(2) Prohibit an employee entering the private employer's place of business or parking lot because the employee's private motor vehicle contains a firearm in the following circumstances:

(A) The parking lot is on the grounds of an owner-occupied single-family detached residence or a tenant-occupied single-family detached residence and the single-family detached residence or tenant-occupied single-family detached residence is being used as a residence;

(B) The private employer reasonably believes that the employee is in illegal possession of the firearm;

(C) The employee is operating a private employer-owned motor vehicle during and in the course of the employee's duties on behalf of the private employer, unless the employee is required to transport or store a firearm as part of the employee's duties;

(D) The private motor vehicle is not permitted in the parking lot for reasons unrelated to the employee's transportation, storage, or possession of a firearm;

(E) The employee is the subject of an active or pending employment disciplinary proceeding; or

(F) The employee has been adjudicated mentally incompetent or not guilty in a legal proceeding by reason of mental disease or defect.

(e) This section does not prevent a private employer from prohibiting a person who fails to transport or store the firearm in accordance with subsection (b) of this section from transporting or storing a firearm in the private employer's parking lot or from entering the private employer's place of business or the private employer's parking lot.

(f) A former employee who possesses a firearm in his or her private motor vehicle under this section is not criminally liable for possessing the firearm in his or her private motor vehicle in his or her former



private employer's parking lot while the former employee is physically leaving the private employer's parking lot immediately following his or her termination or other reason for ceasing employment with the former private employer.

**History.** Acts 2021, No. 809, § 3.

**SUBCHAPTER 2 — INDUSTRIAL HEALTH SERVICE ACT**  
**[Repealed.]**

SECTION.  
 11-5-201 — 11-5-208. [Repealed.]

**11-5-201 — 11-5-208. [Repealed.]**

**A.C.R.C. Notes.** The repeal of § 11-5-205 by Acts 2019, No. 910, § 4854, superseded the amendment of § 11-5-205 by Acts 2019, No. 315, § 769. The amendment by Act 315 deleted "and regulations" following "rules".

**Publisher's Notes.** This subchapter, concerning the Industrial Health Service Act, was repealed by Acts 2019, No. 910, § 4854, effective July 1, 2019. The subchapter was derived from the following sources:

11-5-201. Acts 1947, No. 350, § 1; A.S.A. 1947, § 81-414.

11-5-202. Acts 1947, No. 350, § 1; A.S.A. 1947, § 81-414.

11-5-203. Acts 1947, No. 350, § 8; A.S.A. 1947, § 81-421.

11-5-204. Acts 1947, No. 350, §§ 2, 3; A.S.A. 1947, §§ 81-415, 81-416.

11-5-205. Acts 1947, No. 350, § 4; A.S.A. 1947, § 81-417; Acts 2019, No. 315, § 769.

11-5-206. Acts 1947, No. 350, § 5; A.S.A. 1947, § 81-418.

11-5-207. Acts 1947, No. 350, § 7; A.S.A. 1947, § 81-420.

11-5-208. Acts 1947, No. 350, § 6; A.S.A. 1947, § 81-419.

**SUBCHAPTER 3 — WORK NEAR HIGH VOLTAGE LINES**

SECTION.  
 11-5-301. Purpose.  
 11-5-307. Notification.

SECTION.  
 11-5-308. Prohibited acts.

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

**11-5-301. Purpose.**

(a) This subchapter provides for the minimum precautions to be taken during any excavation, demolition, transportation of equipment, construction, repair, or operation in the proximity of energized overhead electrical lines.

(b)(1) The purposes of this subchapter are to provide for the protection of persons engaged in work of any nature in the vicinity of energized overhead electrical lines, to define the conditions under which work may be carried on safely, the procedures and means by which these conditions may be created, to provide penalties, and to provide remedies to those affected by violations of this subchapter.

(2) This subchapter shall not apply to the direct employees of the State Highway Commission or the Arkansas Department of Transportation.

**History.** Acts 1963, No. 148, § 1; A.S.A. 1947, § 81-1401; Acts 1989, No. 752, § 1; 2017, No. 707, § 13.

**Amendments.** The 2017 amendment,

in (b)(2), substituted "This" for "The provisions of this", and substituted "Department of Transportation" for "State Highway and Transportation Department".

**11-5-307. Notification.**

(a)(1) When any person, firm, or corporation desires to temporarily carry on any function, activity, work, or operation in closer proximity to any energized overhead electrical line or conductor than permitted by this subchapter, the person or persons responsible for the work to be done shall promptly notify the Director of the Division of Labor and the operator or owner of the electrical lines in writing of the work to be performed and make appropriate arrangements with the operator of the electrical lines before proceeding with any work which would impair the clearances required by this subchapter.

(2) The written notice shall be given to the owner or operator of the electrical lines by submitting notification to the manager of the nearest local office of the operator or owner of the electrical lines with a copy forwarded to the director.

(b)(1) The work shall be performed only after satisfactory mutual arrangements have been negotiated between the owner and operator of the electrical lines and the person or persons responsible for the work to be done.

(2) The owner or operator of the electrical lines shall commence work on the mutual arrangements as provided herein within three (3) working days of the mutual arrangement. Once initiated, the clearance work will continue without unreasonable interruption to complete.

**History.** Acts 1963, No. 148, § 9; 1979, No. 716, § 4; A.S.A. 1947, § 81-1409; Acts 1989, No. 752, § 8; 2019, No. 910, § 5335.

**Amendments.** The 2019 amendment

substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a)(1).



**11-5-308. Prohibited acts.**

(a) No person, firm, corporation, or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation, or association, shall perform, require, or permit any agent or employee to perform any function or activity upon any land, building, structure, highway, or other premises when it could be reasonably expected, during the performance of the activity, for any person or employee engaged in performing work connected with or related to the function or activity to move or to be placed in a position within ten feet (10') of any energized overhead electrical line or conductor, or when it could be reasonably expected for any part of any tool, equipment, machinery, or material to be used by any such person or employee to be brought within ten feet (10') of any such overhead line or conductor through any lateral, vertical, or swinging motion during the performance of that function or activity, unless and until danger from accidental contact with said overhead lines has been effectively guarded against in the manner hereinafter prescribed.

(b) No person, firm, corporation, or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation, or association, shall store, operate, erect, maintain, move or transport any tools, machinery, equipment, supplies, materials, or other apparatus, house, other building, or any part thereof, within ten feet (10') of any energized overhead electrical line unless and until danger from accidental contact with the overhead line has been effectively guarded against in the manner hereinafter prescribed.

(c)(1) The commission of any act enumerated in subsection (a) or (b) of this section shall be prohibited except where energized overhead electrical lines have been effectively guarded against danger from accidental contact, by either:

(A) The erection of mechanical or insulating barriers to prevent physical contact with energized overhead electrical lines; or

(B) De-energizing the overhead electrical lines and grounding.

(2) Only in the case of either of such exceptions may the ten foot (10') clearance required be reduced. The required ten foot (10') clearance shall not be provided by movement of the lines through strains impressed by attachments or otherwise, upon the structures supporting the overhead lines, nor upon any equipment, fixtures, or attachments thereon.

(3) If subdivisions (c)(1)(A) and (B) of this section are not practicable in the opinion of the owner or operator of the electrical lines and it is necessary to temporarily relocate the overhead electrical lines, mutually agreeable arrangements shall be made with the owner or operator of the overhead electrical lines for the temporary relocation.

(4) In addition to the requirements of subdivisions (c)(1)(A) and (B) of this section, there shall be installed an insulated cage-type guard or protective device, approved by the Director of the Division of Labor,

about the boom or arm of all equipment, except backhoes or dippers. Where the equipment includes a lifting hook device also approved by the director, all lifting lines shall be equipped with insulator links on the lift hook connection.

(5) All mechanical barriers and all insulated protective devices and links referred to in this section shall be of such character and construction as are suited to the work operations and adequate for the electrical conditions to be encountered.

(6) All mechanical barriers and all insulated protective devices and links shall be maintained in such functioning condition as to meet periodic inspection.

**History.** Acts 1963, No. 148, §§ 5, 6; 1979, No. 716, § 2; A.S.A. 1947, §§ 81-1405, 81-1406; Acts 1989, No. 752, §§ 6, 7; 2019, No. 910, § 5336.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the first sentence of (c)(4).

#### SUBCHAPTER 4 — GENETIC INFORMATION IN THE WORKPLACE

### 11-5-403. Prohibition of employer's use of genetic test or information.

#### RESEARCH REFERENCES

**ALR.** Construction and Application of Statutes Prohibiting Genetic Discrimination in Workplace. 6 A.L.R.7th Art. 2 (2015).

#### SUBCHAPTER 5 — EMPLOYEE MICROCHIP IMPLANTATION

##### SECTION.

11-5-501. Microchip implantation of employees — Definitions.

### 11-5-501. Microchip implantation of employees — Definitions.

(a) As used in this section:

(1) "Employee" means a person who:

(A) Is employed by an employer; or

(B) Contracts to perform certain work away from an employer's premises, uses his or her own methods to accomplish the work, and is subject to the control of the employer only as to the results of performed work;

(2) "Employer" means:

(A) An individual, partnership, association, corporation, commercial entity, this state, or a political subdivision of the state; or

(B) A person or a group that acts directly or indirectly in the interest of or in relation to an individual, partnership, association, corporation, commercial entity, this state, or a political subdivision of the state; and

(3) "Microchip" means technology that:

(A) Is designed to be implanted in the body of an individual; and



(B) Contains a unique identification number or personal information that can be noninvasively retrieved or transmitted with an external scanning device.

(b) An employer shall not ask on an application for employment or inquire during an interview if a prospective employee will consent to having a microchip implanted in his or her body.

(c) An employer shall not require an employee to have a microchip implanted in the employee's body as a condition of employment.

(d) An employer shall provide reasonable accommodations for an employee who does not consent to having a microchip implanted in his or her body.

(e)(1) An employer shall not:

(A) Coerce an employee into consenting to have a microchip implanted in his or her body;

(B) Create a hostile work environment for an employee who does not consent to having a microchip implanted in his or her body;

(C) Withhold advancement within the company from an employee who does not consent to having a microchip implanted in his or her body;

(D) Withhold a salary or wage increase from an employee who does not consent to having a microchip implanted in his or her body; or

(E) Dismiss an employee based on the decision of the employee not to consent to having a microchip implanted in his or her body.

(2) For the purposes of subdivision (e)(1) of this section, "coerce" means:

(A) The use of physical violence, a threat, intimidation, or retaliation with the purpose of causing a reasonable individual of ordinary susceptibilities to acquiesce when the individual otherwise would not;

(B) The conditioning of a private or public benefit, including without limitation employment, promotion, or another employment benefit, with the purpose of causing a reasonable individual of ordinary susceptibilities to acquiesce when the individual otherwise would not; or

(C) The use of any other means with the purpose of causing a reasonable individual of ordinary susceptibilities to acquiesce when the individual otherwise would not.

(f)(1) A microchip may be implanted in an employee's body at the request of an employer if the employee provides the employer with written consent.

(2)(A) An employee may request the removal of the microchip at any time.

(B) If an employee requests the removal of the microchip, the microchip implant shall be removed within thirty (30) days of the employee's request.

(g) If an employee receives a microchip implant at the request of an employer, the employer shall:

(1) Pay all the costs associated with implanting and removing the microchip;

(2) Pay all the medical costs incurred by the employee as a result of any bodily injury to the employee caused by the implantation of the microchip or the presence of the microchip in the employee's body; and

(3) Disclose to the employee:

(A) The data that will be maintained on the microchip; and

(B) How the data that is maintained on the microchip will be used by the employer.

(h)(1) If an employee is terminated from employment, the microchip implant shall be removed from the employee's body within thirty (30) days of the employee's termination.

(2)(A) An employee may elect to retain an implanted microchip after the termination of the employee's employment.

(B) If an employee elects to retain an implanted microchip after termination of employment, the employee assumes responsibility for all costs associated with the microchip, and subsection (g) of this section shall not apply.

(i) This section does not prohibit an employer from using alternative noninvasive technology that is intended to track the movement of an employee.

**History.** Acts 2019, No. 516, § 1.

## CHAPTER 6

### CHILD LABOR

#### SECTION.

11-6-103. Penalty — Disposition of fines.

11-6-107. Children under age 16 years —  
Prohibitions against certain kinds and places of work.

11-6-109. Children under age 16 years —  
Employment certificate required.

#### SECTION.

11-6-110. Children under age 17 years —  
Hours of employment.

11-6-111. Inspection of workplace — Prosecution of violators.

11-6-115. Domestic labor and child care in connection with church functions permitted — Definition.

**Effective Dates.** Acts 2015, No. 162, § 2: Feb. 23, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are restrictions on the number of hours of employment or days of employment for a person who is seventeen-years old or seventeen (17) years of age; that many employers have avoided the excessive time and costs necessary to comply with the restrictions by employing individuals who are adults; that by removing the restrictions on employment of persons who are seventeen-years old or seventeen (17) years of age, an employer will

have greater flexibility to hire employees; and that this act is immediately necessary because persons who are seventeen-years old or seventeen (17) years of age may be considered for employment opportunities that have previously been unavailable. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or



(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 11-6-103. Penalty — Disposition of fines.

(a)(1) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who employs or permits or suffers any child to be employed or to work in violation of this subchapter or §§ 11-12-101 — 11-12-105, or any rules issued thereunder, shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(2) Each day the violation continues shall with respect to each child so employed or permitted work constitute a separate offense.

(b) The Director of the Division of Labor shall determine the amount of such penalty and shall consider the appropriateness of such penalty to the size of the business and the gravity of the violation.

(c) The determination by the director shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail, the person, firm, corporation, partnership, or association charged with the violation notifies the director in writing that he or she contests the proposed penalty. In the event that penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The amount of penalty when finally determined may be recovered in a civil action brought by the director in a court of competent jurisdiction, without paying costs or giving bond for costs.

(e) Sums collected under this section shall be paid into the Department of Labor and Licensing Special Fund.

(f) Assessment of a civil penalty by the director shall be made no later than two (2) years from the date of the occurrence of the violation.

(g) In addition to the civil penalty provided by this section, the director is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or §§ 11-12-101 — 11-12-105, or any rule issued thereunder.

**History.** Init. Meas. 1914, No. 1, § 13, Acts 1915, p. 1505; C. & M. Dig., § 7099; Pope's Dig., § 9081; A.S.A. 1947, § 81-714; Acts 1991, No. 509, § 1; 2001, No. 577, § 7; 2019, No. 315, §§ 770, 771; 2019, No. 910, §§ 5337, 5338.

**Amendments.** The 2019 amendment by No. 315 substituted "rules" for "regulations" in (a)(1); and substituted "rule" for "regulation" in (g).

The 2019 amendment by No. 910 substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b); and substituted "Department of Labor and Licensing Special Fund" for "Department of Labor Special Fund" in (e).

### **11-6-107. Children under age 16 years — Prohibitions against certain kinds and places of work.**

(a) No child under sixteen (16) years shall be employed or permitted to work at any of the following occupations:

- (1) Adjusting any belt to any machinery;
- (2) Sewing or lacing machine belts in any workshop or factory;
- (3) Oiling, wiping, or cleaning machinery or assisting therein;
- (4) Operating or assisting in operating any of the following machines:

- (A) Circular or band saws;
- (B) Wood shapers;
- (C) Wood jointers;
- (D) Planers;
- (E) Sandpaper or wood polishing machinery;
- (F) Wood turning or boring machinery;
- (G) Picker machines or machines used in picking wool;
- (H) Carding machines;
- (I) Job or cylinder printing presses operated by power other than foot power;

(J) Boring or drill presses;

(K) Stamping machines used in metal or in paper or leather manufacturing;

(L) Metal or paper cutting machines;

(M) Corner staying machines in paper box factories;

(N) Steam boilers;

(O) Dough brakes or cracker machinery of any description;

(P) Wire or iron straightening or drawing machinery;

(Q) Rolling mill machinery;

(R) Washing, grinding, or mixing machinery; or

(S) Laundering machinery;

(5) In proximity to any hazardous or unguarded belt, machinery, or gearing; or

(6) Upon any railroad, whether steam, electric, or hydraulic.

(b)(1) The Director of the Division of Labor may, from time to time after a hearing duly had, determine what other occupations are sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. No child under sixteen (16) years of age shall be employed or



permitted to work in any occupation thus determined to be dangerous or injurious.

(2) There shall be right of appeal from any such determination pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Init. Meas. 1914, No. 1, § 3 (1st and 2nd par.), Acts 1915, p. 1505; C. & M. Dig., §§ 7087, 7088; Pope's Dig., §§ 9069, 9070; A.S.A. 1947, §§ 81-703, 81-704; Acts 1991, No. 565, § 1; Acts 2019, No. 910, § 5339.

**Amendments.** The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the first sentence of (b)(1).

### **11-6-109. Children under age 16 years — Employment certificate required.**

(a) No person, firm, or corporation shall employ or permit any child under sixteen (16) years to work in or in connection with any establishment or occupation unless the person, firm, or corporation employing the child procures and keeps on file, accessible to the Division of Labor and the Division of Elementary and Secondary Education, or local school officials, an employment certificate as provided in this section.

(b)(1) The employment certificate shall be issued only by the Director of the Division of Labor.

(2) Application for an employment certificate shall be made on a form approved by the director and shall require submission of the following:

- (A) Proof of age;
- (B) A description of the work and work schedule; and
- (C) Written consent of the parent or guardian.

**History.** Init. Meas. 1914, No. 1, §§ 7-10, Acts 1915, p. 1505; Acts 1917, No. 391, § 1, p. 1849; C. & M. Dig., §§ 7092-7095; Pope's Dig., §§ 9074-9077; A.S.A. 1947, §§ 81-708—81-711; Acts 1991, No. 565, § 2; 2019, No. 910, §§ 5340, 5341.

substituted "Division of Labor" for "Department of Labor" and "Division of Elementary and Secondary Education" for "Department of Education" in (a); and substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (b)(1).

**Amendments.** The 2019 amendment

### **11-6-110. Children under age 17 years — Hours of employment.**

A child under seventeen (17) years of age shall not be employed or permitted to work in any occupation:

- (1) More than six (6) days in any week;
- (2) More than fifty-four (54) hours in any week;
- (3) More than ten (10) consecutive hours in any one (1) day;
- (4) More than ten (10) hours in a twenty-four-hour period; or
- (5) Before 6:00 a.m. or after 11:00 p.m., except that the limitations of 6:00 a.m. and 11:00 p.m. shall not apply to children under seventeen (17) years of age employed on nights preceding nonschool days in occupations determined by rule of the Division of Labor to be sufficiently safe for their employment.

**History.** Init. Meas. 1914, No. 1, § 6, § 2; 1975, No. 11, § 1; 1977, No. 326, § 1; Acts 1915, p. 1505; C. & M. Dig., § 7091; A.S.A. 1947, § 81-707; 2005, No. 939, § 1; Pope's Dig., § 9073; Acts 1973, No. 449, 2015, No. 162, § 1.

### **11-6-111. Inspection of workplace — Prosecution of violators.**

(a) The Director of the Division of Labor or his or her designee shall have the right to enter any building or premises for the purpose of inspection to ascertain whether any child is employed or permitted to work in violation of the provisions of this subchapter.

(b)(1) It shall be the duty of the director to enforce and administer the provisions of this subchapter.

(2) The director is authorized to adopt rules for the enforcement and administration of this subchapter.

(3) The director may revoke an employment certificate for cause.

**History.** Init. Meas. 1914, No. 1, § 11, by No. 315 deleted "and regulations" following "rules" in (b)(2).  
Acts 1915, p. 1505; C. & M. Dig., §§ 7096, 7097; Pope's Dig., §§ 9078, 9079; A.S.A. 1947, § 81-712; Acts 1991, No. 565, § 3; 2019, No. 315, § 772; 2019, No. 910, § 5342. The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

**Amendments.** The 2019 amendment

### **11-6-115. Domestic labor and child care in connection with church functions permitted — Definition.**

(a) As used in this section, "domestic labor" means any occasional, irregular, or incidental work related to and in or around private residences, including, but not limited to babysitting, pet sitting, similar household chores, and manual yard work. This definition specifically excludes industrial homework, work for a third party such as a sitting service, and any activity determined by the Director of the Division of Labor to be hazardous pursuant to the provisions of § 11-6-107(b).

(b) Except as provided in this section, the provisions of this chapter relating to child labor, shall not apply to any child employed for the purposes of domestic labor.

(c) Except as provided in this section, the provisions of this chapter relating to child labor, shall not apply to employees of churches performing childcare services where children are cared for during short periods of time while parents or persons in charge of the children are attending church services or functions.

**History.** Acts 1997, No. 934, § 1; 2019, No. 910, § 5343. substituted "Director of the Division of Labor" for "Director of the Department of Labor" in the second sentence of (a).

**Amendments.** The 2019 amendment



## CHAPTER 7

### REGULATION OF MINES

#### SUBCHAPTER.

2. STATE MINE INSPECTOR.
3. REGULATION OF OPERATION.
4. EMPLOYEE CERTIFICATION.

#### SUBCHAPTER 2 — STATE MINE INSPECTOR

##### SECTION.

- 11-7-204. Appointment, term, and qualifications.
- 11-7-206. State Mine Inspector — Powers and duties.

##### SECTION.

- 11-7-207. Assistant State Mine Inspector.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

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#### 11-7-204. Appointment, term, and qualifications.

(a) The Governor shall appoint a State Mine Inspector, who shall hold office for a term of two (2) years, beginning on July 1 of every odd-numbered year and until his or her successor is appointed and qualified.

(b)(1) The mine inspector shall be a citizen of good repute and temperate habits, and he or she must have had five (5) years' experience as a practical miner.

(2) While holding office, the mine inspector shall not be connected with or engaged, directly or indirectly, as owner, operator, agent, or director of any coal mine or other mining interest.

(c) The Governor and the Secretary of the Department of Labor and Licensing shall have the power to remove a mine inspector for cause.

(d)(1) Before entering upon the duties of his or her office and within twenty (20) days after his or her appointment, the mine inspector shall make and execute a bond to the State of Arkansas, with one (1) or more sufficient sureties, in the sum of five thousand dollars (\$5,000), conditioned upon the faithful performance of his or her duties, which shall be approved by the Governor.

(2) When the bond is so approved, he or she shall also take the oath of office prescribed by the Arkansas Constitution.

(3)(A) In the event that the mine inspector shall fail to make and execute the bond within the time prescribed by subdivision (d)(1) of this section, his or her appointment shall be declared void.

(B) It is made the duty of the Governor to appoint and have qualified a proper person in his or her stead, as contemplated by the provisions of this section.

(e) The State Mine Inspector shall report to the Secretary of the Department of Labor and Licensing and shall be an employee of the Department of Labor and Licensing.

**History.** Acts 1917, No. 130, §§ 1, 2, p. 683; C. & M. Dig., §§ 7249, 7250; Acts 1923, No. 120, § 1; 1937, No. 233, § 1; Pope's Dig., §§ 9305, 9306; Acts 1983, No. 532, § 1; A.S.A. 1947, §§ 52-401, 52-402; Acts 2019, No. 910, §§ 5344, 5345.

**Amendments.** The 2019 amendment substituted "and the Secretary of the Department of Labor and Licensing" for "alone" in (c); and added (e).

### 11-7-206. State Mine Inspector — Powers and duties.

(a) In addition to the duties imposed upon him or her by law, the State Mine Inspector shall:

(1) Recommend to the various operators of coal mines throughout the state all safety rules that he or she shall deem advisable; and

(2) Investigate the necessity and feasibility of purchasing and maintaining safety, first aid, rescue, or recovery equipment that he or she shall find feasible and necessary.

(b)(1) If he or she shall find the purchase and maintenance of the above-described equipment feasible and necessary, he or she is authorized to purchase and maintain the equipment after the legislative appropriation of necessary funds from the General Revenue Fund Account of the State Apportionment Fund, as directed by the appropriation, and the expenses thereof shall be paid in the same manner as the items provided for in § 11-7-205(b) are directed to be paid.

(2) All equipment as above described must be such that it will be adaptable for use in and will be available for use in any and all coal mines in the State of Arkansas.

(c) In his or her annual report, the mine inspector shall:

(1) Enumerate all recommendations that he or she has made for safety measures and the result thereof; and

(2) Recommend to each regular session of the General Assembly the measures as he or she deems necessary for the promotion of safety in coal mines.

(d) He or she shall also request appropriations of all funds necessary to accomplish the purposes of this section and § 11-7-205.

**History.** Acts 1943, No. 413, § 3; A.S.A. 1947, § 52-406; Acts 2009, No. 962, § 28; 2011, No. 980, § 2; 2019, No. 315, § 773.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (a)(1).



**11-7-207. Assistant State Mine Inspector.**

- (a) There is created the office of Assistant State Mine Inspector.
- (b) His or her term of office shall be for a period of two (2) years, to run coextensively with the term of the State Mine Inspector and until his or her successor has been appointed and qualified.
- (c) He or she shall be appointed by the Governor and work under the direction of the State Mine Inspector.
- (d) He or she may be removed by the Governor for neglect of duty or for any other reasonable cause.
- (e) He or she shall have been a resident of the State of Arkansas for the number of years and possess the same qualifications as are required of the State Mine Inspector.
- (f)(1) Before entering upon the discharge of his or her duties as Assistant State Mine Inspector, he or she shall take and subscribe to the oath of office prescribed by law for the State Mine Inspector and shall execute a bond to the State of Arkansas, with approved security, in the sum of five thousand dollars (\$5,000), conditioned upon the faithful performance of his or her duties as such official.
- (2) The bond shall be approved as in the case of the State Mine Inspector and, when so approved, shall be filed in the office of the Secretary of State.
- (g) The Assistant State Mine Inspector shall report to the State Mine Inspector and shall be an employee of the Department of Labor and Licensing.

**History.** Acts 1949, No. 268, § 20; **Amendments.** The 2019 amendment A.S.A. 1947, § 52-414; Acts 2019, No. 910, added (g).  
§ 5346.

**SUBCHAPTER 3 — REGULATION OF OPERATION****SECTION.**

11-7-306. Regulation of air currents.

**11-7-306. Regulation of air currents.**

- (a) Air regulation of all slopes, drifts, or shafts used for hoisting or hauling coal shall be made at the intake of air into the mine, except at the option of the owner or by direction of the State Mine Inspector, and all air that goes into the mine shall be so split that not more than fifty (50) employees will be working on each split of air, and not less than two hundred cubic feet (200 cu. ft.) of air per person shall pass each working face per minute, and the air shall be sufficient to dilute all noxious or explosive gases.
- (b) It shall be the duty of the mine inspector to measure the air at all working faces in making his or her inspection.
- (c) The machinery and appliances used for conducting or driving the air into the mines shall be so installed, arranged, and adjusted that the air currents may be easily and speedily reversed in emergencies.

**History.** Acts 1905, No. 225, § 17, p. 567; 1919, No. 686, § 1; C. & M. Dig., § 7284; Pope's Dig., § 9340; Acts 1949, No. 268, § 8; A.S.A. 1947, § 52-605; Acts 2019, No. 382, § 1.

**Amendments.** The 2019 amendment substituted "per person" for "per man" in (a).

## SUBCHAPTER 4 — EMPLOYEE CERTIFICATION

### SECTION.

- 11-7-401. [Repealed.]  
 11-7-402. Director of the Division of Labor — Power to administer oaths.  
 11-7-403. Fire bosses, mine foremen, etc. — Examination — Qualifications.  
 11-7-404. Fire bosses, mine foremen, etc. — Certificate — Grades.  
 11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.  
 11-7-406. Fire bosses, mine foremen, etc.

### SECTION.

- Revocation of certificate.  
 11-7-410. Coal miners — Certificate required.  
 11-7-411. Coal miners — Examination — Qualifications — Certificates.  
 11-7-412. Coal miners — Temporary permit — Grandfather clause.  
 11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 11-7-401. [Repealed.]

**Publisher's Notes.** This section, concerning Coal Mine Examining Board members, organization, and proceedings, was repealed by Acts 2017, No. 266, § 1. The section was derived from Acts 1919,

No. 486, §§ 1, 2; C. & M. Dig., §§ 7317, 7318; Pope's Dig., §§ 9373, 9374; A.S.A. 1947, §§ 52-501, 52-502; Acts 1997, No. 250, § 59.

### 11-7-402. Director of the Division of Labor — Power to administer oaths.

(a) To more effectively carry out the intentions and purposes of this section and §§ 11-7-409 — 11-7-414, the Director of the Division of Labor may administer oaths to all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of an applicant to obtain for him or her a certificate under this section and §§ 11-7-409 — 11-7-414.



(b) A person who falsely testifies or swears to any matter material to the examination or to the service or qualification of an applicant is guilty of perjury.

**History.** Acts 1949, No. 268, § 17; A.S.A. 1947, § 52-517; Acts 2017, No. 266, § 2; 2019, No. 910, § 5347.

**Amendments.** The 2017 amendment substituted "Director of the Department of Labor" for "Coal Mine Examining Board" in the section heading; in (a), substituted "To" for "In order to", "the Director of the Department of Labor may administer oaths to all" for "members of the Coal Mine Examining Board shall have the power to administer oaths to any and all", "an applicant" for "any applicant in order", and "under" for "pursuant to"; and,

in (b), substituted "A person who falsely testifies or swears" for "Any person who shall falsely testify or swear", "the" for "such" preceding "examination", and "an applicant is guilty of perjury" for "any applicant shall be deemed guilty of perjury and upon conviction shall be subject to the penalties prescribed by the laws of the State of Arkansas against those who commit perjury".

The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

### **11-7-403. Fire bosses, mine foremen, etc. — Examination — Qualifications.**

(a) No fire bosses, hoisting engineers, or mine foremen shall be employed in any mine in the State of Arkansas unless they have been examined by the Division of Labor or the division determines that comparable testing criteria have been met in another jurisdiction.

(b) No one shall act as State Mine Inspector or Assistant State Mine Inspector unless he or she has been examined by the division, as provided in this section.

(c) Applicants for examination shall be able to read and write the English language and shall satisfy the division that they are of good moral character and are not users of intoxicating liquors and are citizens of the United States.

(d) All applicants shall be thoroughly examined with reference to the duties of the positions for which they have applied for a certificate.

(e)(1) Applicants for certificates as mine foremen shall be at least twenty-five (25) years old and shall have had at least five (5) years' experience as practical coal miners, mining engineers, or persons of general underground experience.

(2) Applicants for certificates as fire bosses shall have like qualifications and experience in the mines of Arkansas or elsewhere and shall also have had experience in mines that generate explosive and noxious gases.

(f)(1) Applicants for certificates as mine inspector shall, before examination, pay to the division a fee of four dollars (\$4.00) and, if successful, a further fee of six dollars (\$6.00) for a certificate.

(2) Applicants for certificates as assistant mine inspector shall, before examination, pay to the division a fee of three dollars (\$3.00) and, if successful, a further fee of four dollars and fifty cents (\$4.50) for a certificate.

(3) Applicants for certificates as mine foremen and hoisting engineers shall, before examination, pay to the division a fee of two dollars

(\$2.00) and, if successful, a further fee of three dollars (\$3.00) for a certificate.

(4) Other applicants shall, before examination, pay to the division of examiners a fee of one dollar (\$1.00) and, if successful, a further fee of two dollars (\$2.00) for a certificate.

**History.** Acts 1919, No. 486, § 3; C. & M. Dig., § 7319; Pope's Dig., § 9375; A.S.A. 1947, § 52-503; Acts 2003, No. 358, § 1; 2019, No. 910, §§ 5348, 5349.

substituted "Division of Labor" for "Department of Labor" in (a); and substituted "division" for "department" throughout the section.

**Amendments.** The 2019 amendment

### 11-7-404. Fire bosses, mine foremen, etc. — Certificate — Grades.

(a)(1) The Director of the Division of Labor shall grant certificates after examination by the Division of Labor or a determination by the division that the testing requirements have been satisfied in another jurisdiction.

(2) The certificates shall be granted to all applicants who through these testing procedures have shown themselves to be familiar with the duties of the position for which they desire certificates and are capable of performing the duties.

(3) Certificates of the first grade shall be granted only to applicants who by oral or written examinations in the presence of and relating to explosive gas have shown themselves competent to act as mine foremen in mines which generate explosive and noxious gases, and the certificate shall so state.

(4) Certificates for mine inspector and assistant mine inspector shall be granted only to applicants who have shown themselves duly qualified, as provided by the law creating the office, and no appointments shall be made to these offices unless the appointee shall hold a certificate.

(b)(1) Anyone holding a first grade foreman's certificate may serve as a foreman in any mine and may serve as fire boss.

(2) Anyone holding a second grade mine foreman's certificate may serve as any of the above, except as fire boss and foreman in mines which generate explosive or noxious gases.

(3)(A) In case of emergency, a mine owner, with consent of the director, may employ a trustworthy or experienced man or woman who does not possess a certificate, for a period of not more than thirty (30) days as mine foreman or fire boss.

(B) If the holder of a permit fails to qualify after thirty (30) days, his or her permit shall be revoked.

**History.** Acts 1919, No. 486, §§ 4, 5; C. & M. Dig., §§ 7320, 7321; Pope's Dig., §§ 9376, 9377; Acts 1949, No. 268, § 9; A.S.A. 1947, §§ 52-504, 52-505; Acts 2003, No. 358, § 2; 2017, No. 266, § 3; 2019, No. 910, § 5350.

**Amendments.** The 2017 amendment redesignated (b)(3) as (b)(3)(A) and (b)(3)(B); in (b)(3)(A), substituted "a mine owner, with consent of the director, may employ a" for "any mine owner, with consent of the Coal Mine Examining Board,



may employ any", and "does not" for "shall not"; and, in (b)(3)(B), substituted "If" for "In the event that".

The 2019 amendment, in (a)(1), substituted "Director of the Division of Labor"

for "Director of the Department of Labor", "Division of Labor" for "Department of Labor", and "division" for "department".

### **11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.**

In case of loss or destruction of a certificate, the Director of the Division of Labor, upon satisfactory proof of the loss or destruction, may issue a duplicate on the payment of the sum of one dollar (\$1.00).

**History.** Acts 1919, No. 486, § 7; C. & M. Dig., § 7323; Pope's Dig., § 9379; A.S.A. 1947, § 52-507; Acts 2017, No. 266, § 4; 2019, No. 910, § 5351.

**Amendments.** The 2017 amendment substituted "Director of the Department

of Labor" for "secretary of the examining board".

The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor".

### **11-7-406. Fire bosses, mine foremen, etc. — Revocation of certificate.**

(a) All certificates issued pursuant to this subchapter may be revoked by the Director of the Division of Labor after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the director or by some interested person for violation of this section and §§ 11-7-403 — 11-7-405 and 11-7-407.

(b)(1) A complaint may be filed against the holder of a certificate for intoxication, mental disabilities, neglect of duty, or other sufficient cause.

(2) The holder of the certificate so cancelled shall have the right to appear before the director after the expiration of three (3) months and be reexamined if he or she shall first satisfy the director that the incapacity complained of has ceased to exist.

**History.** Acts 1919, No. 486, § 8; C. & M. Dig., § 7324; Pope's Dig., § 9380; A.S.A. 1947, § 52-508; Acts 2017, No. 266, § 5; 2019, No. 910, § 5352.

**Amendments.** The 2017 amendment, in (a), substituted "Director of the Department of Labor" for "board of examiners", "director" for "board", and "this section and §§ 11-7-403 — 11-7-405 and 11-7-

407" for "§§ 11-7-401 and 11-7-403 — 11-7-407"; and, in (b)(2), substituted "director" for "examining board", inserted "or she", substituted "director" for "board" following "satisfy the", and substituted "has" for "shall have" preceding "ceased".

The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

### **11-7-410. Coal miners — Certificate required.**

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the Director of the Division of Labor, nor shall any person, firm, or corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who does not hold a

certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

(b) Any person, firm, or corporation who violates any of the provisions of this section or § 11-7-411 shall be deemed guilty of a misdemeanor and on conviction shall be fined in the sum of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) or by imprisonment for a term of not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment, at the discretion of the court or jury trying the case.

**History.** Acts 1949, No. 268, § 16; A.S.A. 1947, § 52-516; Acts 2017, No. 266, § 6; 2019, No. 910, § 5353.

**Amendments.** The 2017 amendment substituted "Director of the Department

of Labor" for "Coal Mine Examining Board of this state" in (a).

The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

### **11-7-411. Coal miners — Examination — Qualifications — Certificates.**

(a) The Director of the Division of Labor shall hold sufficient examinations each year in places to be determined by the director, which, in his or her opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

(b) All examinations held by the director shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of each applicant.

(c) The director shall:

(1) Examine under oath all persons who apply for certificates, except those regularly employed in the State of Arkansas and exempted under § 11-7-409, as to their previous experience as coal miners; and

(2)(A) Grant certificates of competency and qualification to such applicants as the director finds to be qualified.

(B) The certificate, when so issued, entitles the holder to be employed as, and to do the work of, a coal miner in this state.

(d)(1) A certificate of competency and qualification shall not be issued or delivered to any person under this act, unless:

(A) He or she first produces evidence of having had not less than two (2) years of practical experience working as a coal miner or working with a coal miner; and

(B) He or she is competent to mine coal in the coal mines of this state.

(2) In no case shall the applicant be deemed competent or qualified under this act unless he or she appears in person before the director and orally answers correctly at least twelve (12) practical questions propounded to him or her by the director pertaining to requirements and qualifications of a practical coal miner.



(e) The director shall keep an accurate record of proceedings and meetings and in the record shall show a correct detailed account of the examination of each applicant with the questions asked and his or her answers, and the director shall keep the records open for the inspection of the parties in interest.

(f) A miner's certificate granted under this act is not transferable, and any effort to transfer the certificate shall be deemed a violation of this act.

(g) The certificate shall be issued and signed by the director.

(h)(1) Each applicant for the certificate provided for under this section shall pay a fee of fifty cents (50¢) to the director at the time of making application and, if successful in the examination, shall pay an additional fee of fifty cents (50¢) for the certificate.

(2) All fees collected from applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

**History.** Acts 1949, No. 268, §§ 12-14; A.S.A. 1947, §§ 52-512—52-514; Acts 2017, No. 266, § 7; 2019, No. 910, § 5354.

**Amendments.** The 2017 amendment, substituted "Director of the Department of Labor" for "Coal Mine Examining Board of this state" in (a), "director" for "Coal Mine Examining Board" in the introductory language of (b), and "director" for "board" or "examining board" throughout the section; substituted "his or her" for "its" in (a); redesignated (c) as (c)(1), (c)(2)(A), and (c)(2)(B); in (c)(1), substituted "apply" for "may apply" and deleted "the provisions of" following "under"; in (c)(2)(A), substituted "Grant" for "shall grant" and "finds" for "may find"; substituted "entitles the holder" for "shall entitle the holder thereof" in (c)(2)(B); in the introductory language of (d)(1), substituted

"A" for "No" and inserted "not" following "shall"; substituted "produces" for "shall produce" in (d)(1)(A); deleted "intelligently and" following "answers" in (d)(2); deleted "at each of its meetings" following "answers, and" in (e); in (f), substituted "A" for "No", deleted "the provisions of" following "under", and substituted "is not" for "shall be"; in (g), substituted "and signed by the director" for "only at meetings of the board, and the certificate shall not be legal unless signed by at least a majority of the members of the board"; substituted "under this section" for "herein" in (h)(1); and deleted "these" preceding "applicants" in (h)(2).

The 2019 amendment substituted "Director of the Division of Labor" for "Director of the Department of Labor" in (a).

## 11-7-412. Coal miners — Temporary permit — Grandfather clause.

(a) A person making application for a coal miner's certificate of competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the Director of the Division of Labor and if, in the judgment of the director, he or she is so qualified.

(b) All fees collected from the applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

**History.** Acts 1949, No. 268, §§ 12, 13; A.S.A. 1947, §§ 52-512, 52-513; Acts 2017, No. 266, § 8; 2019, No. 910, § 5355.

**Amendments.** The 2017 amendment,

in (a), substituted "Director of the Department of Labor and" for "board" and "director, he or she" for "board, he"; deleted (b); and redesignated former (c) as present (b).

The 2019 amendment substituted “Director of the Division of Labor” for “Director of the Department of Labor” in (a).

**11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.**

The Director of the Division of Labor shall possess powers to issue duplicate certificates and revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

**History.** Acts 1949, No. 268, § 15; A.S.A. 1947, § 52-515; Acts 2017, No. 266, § 9; 2019, No. 910, § 5356.

**Amendments.** The 2017 amendment substituted “Director of the Department

of Labor” for “Coal Mining Examining Board”.

The 2019 amendment substituted “Director of the Division of Labor” for “Director of the Department of Labor”.





























